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ABSTRACT

This report presents information from national reports on laws affecting sports in various countries that have acceded to the European Cultural Convention. The reports come from the following countries: Austria, Belarus, Belgium, Croatia, Cyprus, Czech Republic, Finland, France, Georgia, Germany, Hungary, Iceland, Italy, Lithuania, Luxembourg, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland, and the United States. The reports include information on such issues as sports structure and the political framework, legislation, and public support and funding of sports. (SM)

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"A COMPENDIUM OF NATIONAL REPORTS ON LAWS AFFECTING SPORT IN COUNTRIES HAVING ACCEDED TO THE EUROPEAN CULTURAL CONVENTION"

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Strasbourg, 1999

Strasbourg, January 1999

A compendium of national reports on laws affecting sport in countries having acceded to the European Cultural Convention

Reports drawn up at the request of the
Committee for the Development of Sport (CDDS)

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AUSTRIA

SPORTS STRUCTURE AND SPORTS LEGISLATION IN AUSTRIA

A paper outlining the institutional framework for Sport in Austria and the relationship between sport and the law.

Compiled by the Department for Sports, Federal Chancellery
June 1997

Introduction

In the field of sports, the Republic of Austria does not exercise its sovereign powers as the nation's government but, with other public bodies, simply supports the projects of athletes and of their organisations if such projects are of national or international significance.

Governmental powers in the area of sports in Austria are vested in the country's nine constituent states ("Länder"), which means that there are nine different sports laws of the Länder.

The structure of sports clubs and similar organisations in Austria is characterised by the fact that they are organised in accordance with the requirements of Austrian legislation governing private associations, the provisions of which apply to all types of associations. The country's sports organisations have formed national unions or federations (for the various forms of competitive sports and sports for all) with branches in each of the Länder. Their national umbrella organisation is the Österreichische Bundes-Sportorganisation (Austrian Sports Organisation) of which all federations are members.

This paper is divided into the following sections:

- Sports structure and political framework
- Legislation
- Public support and funding of sports

SECTION 1: SPORTS STRUCTURE AND POLITICAL FRAMEWORK

Non-Governmental Sector

National Level

All umbrella organisations and federations (Olympic as well as non-Olympic) are organised in accordance with the Private Associations Act and are members of a national federation, the Österreichische Bundes-Sportorganisation, the umbrella organisation of Austrian sports. In 1996, the Austrian Sports Federation for the Disabled, the umbrella organisation of all federations of handicapped athletes, also joined the Bundes-Sportorganisation as a full member.

Associated members of the Bundes-Sportorganisation are all organisations which concern themselves with sports in special fields or create scientific or other general foundations for sports. Organisations active in university sports or military sports also come within the Bundes-Sportorganisation's ambit.

The Austrian Olympic Committee is also organised under private association law. Its function is to prepare Austria's athletes for the Olympic Games. The membership of the Committee comprises all sports federations the members of which are active in Olympic sports.

All umbrella organisations and federations are members of the appropriate European or world federations, and this is also true of the Olympic Committee.

The Level of the Länder

The umbrella organisations and federations have a branch in each of the nine Länder. As the Länder have government regulatory powers in the sphere of sports, as will be explained later, their governments grant official recognition to specific sports, and the appropriate organisations, if recognised under Land statutes, can claim certain rights and entitlements under the Land's sports legislation and may receive financial support.

Local Level

Local clubs and associations are an essential factor in the social structure of local communities and therefore receive very strong support from local authorities. These organisations form the basis for the successful development of sports activities in mass sports as well as at the top levels. In 1996 Austria had about 13,000 sports clubs.

Public Sector

Federal Government

The main goal of the activities of public authorities in the field of sports is (a) to create the general framework to enable clubs and federations to work as efficiently as possible and (b) to provide funding and other support. The Federal Government also regulates the licensing of all club officers, trainers and instructors in accordance with the type and level of their functions.

Currently the Federal Government maintains nine federal sports centres offering training facilities for top athletes as well as the possibility for sports federations to hold general and specific training courses.

The "Department for Sports", which is responsible for sports, though not for sports in the education system, was at first a unit in the Federal Ministry of Education and the Arts; it was then transferred to the Federal Ministry of Health, and has been part of the **Federal Chancellery** since 1995. The Federal Chancellor (i.e. the Austrian Prime Minister) is the Cabinet member responsible for sports, in which role he is supported by a State Secretary.

The statutory basis for national activities to encourage and aid sports is the Federal Sports Promotion Act of 1969, which contains provisions on assistance and incentives to encourage activities of national and international significance. The Act also regulates the terms under which the Austrian Sports and Gymnastics Badge is awarded, which between 15,000 and 20,000 Austrians receive every year. As an important social phenomenon, sports are, of course, also assisted, and influenced, by the activities of other Federal Ministries.

The **Federal Ministry of Education and Cultural Affairs** is responsible for the whole area of school sports. From the middle of the 19th century, there were constant calls for the introduction of "Turnen" (gymnastics) in schools. Shortly after the turn of the century, this led to the inclusion of "Physical Education" as a compulsory subject in school curricula. Today, 6 to 14-year-olds in compulsory schools get between two and four hours of PE per week, 14 to 15-year-olds in the "polytechnic" courses get two hours, and in higher secondary schools two or three hours are scheduled. Vocational schools, where apprentices go in addition to their practical on-the-job training, offer PE as an optional activity.

The Federal Ministry of Education and Cultural Affairs maintains four Federal Institutes for Sports (in Vienna, Innsbruck, Graz and Linz). Their essential role is to provide training programmes for voluntary officials of sports clubs as well as high level programmes for professional trainers and coaches. The Ministry offers to skiing instructors - a job which is of particular significance in Austria - training at the highest level in the programmes organised by the Innsbruck Federal Institute for Sports and the Federal Sports Centre at St.Christoph on the Arlberg with the assistance of ÖSSV, the Austrian Federation of Ski Schools.

The **Federal Ministry of Science and Transport** is responsible for the country's universities, where teaching staff of higher secondary schools receive their education, and this, of course, includes the practical and scientific training of sports instructors. University institutes also engage in sports research. The Ministry also selects athletes to attend "Universiads" in close consultation with the appropriate sports federations.

The **Federal Ministry of the Interior** is responsible for the Austrian Police Sports Federation. The Interior Ministry obviously has a great say in the naturalisation of foreign athletes. It is also responsible for the deployment of police forces at sports events.

The Austrian Federal Army is under the authority of the **Federal Ministry of Defence**. The Ministry provides very substantial assistance to competitive sports. Currently 120 athletes called up for national service are offered specific facilities. 179 additional places are available for athletes who have finished their basic military training. The Army's School for Sports and Close Combat has ten high level training centres. Athletes get army jobs, coaching and special working hours, the necessary infrastructure, transport, special clothing and equipment, medical check-ups and treatment as well as programmes to develop their vocational skills.

The **Federal Ministry of Finance** is responsible for drafting the Public Lotteries Act and for its financial administration. Much of the subsidies disbursed by the Federal Government to sports federations comes out of the government's earnings from games such as lotteries and football pools.

The Länder

Under Art. 15 of the Austrian Federal Constitution, government powers and responsibilities for sports are vested in the nine constituent states. Hence each of the "Länder" has its own sports law, which inter alia regulates the ways in which sports are organised, without, of course, infringing on citizens' freedom of association.

Each of these laws requires a Sports Council to be established, in which the Land's non-governmental sports organisations are invited to participate. The Council advises the Land's political institutions in order to ensure that sport gets as much assistance as possible. The Council also adopts resolutions on questions laid before it. In each of the Länder, one member of the Land government has specific responsibility for sports.

Land statutes and regulations on sports mainly refer to subsidies and incentives or to safety. They also regulate the work of sports instructors (outside the education system), with most Länder laying great emphasis on rules for the establishment and proper management of ski schools. Much the same applies to mountain guides and ski tour guides. The Länder also legislate on their own medals, badges and awards for athletes, on penal and procedural regulations and other matters concerning sports.

In the interest of co-ordination at the national level, the Land officials responsible for sports regularly hold an annual meeting.

Local Level

Local authority grants and assistance to sports activities play an important role in the public sector. Between 30 and 50 percent of the total assistance to sports comes from local authorities. Many of the central sports facilities are built by local authorities (with help from the Federal Government and Land governments) and are then usually maintained by the local authorities themselves or by clubs.

Commercial Sector

The help of business is vital to sports in many respects. Business likes to use attractive sports events, if they promise publicity and are covered by the media, for promotion purposes and thus helps to finance sports - of course bearing in mind the companies' own interests.

Austria is a small country. Many companies lack the funds for large-scale sponsoring, which is therefore constrained by relatively narrow limits at the national level. At the regional level, local firms and individual business people provide a wide range of different kinds of assistance. They do not expect much of a quid pro quo from clubs and athletes but act out of generosity as patrons on a modest scale.

SECTION 2: LEGISLATION

The general provisions of Austrian law apply to sports as to any other activity. There is no specific body of law governing sports. Hence sports activities - including the physical facilities - come under the appropriate provisions applicable to legal or natural persons. For example, the authorities responsible under the relevant legislation check whether sports facilities are safe and suitable for athletic events (paying due regard to international instruments ratified by Austria, such as the European Convention on Spectator Violence) and sports equipment must conform to general safety regulations.

History

Modern sports activities in Austria started to develop in the second half of the nineteenth century.

Regional clubs began to combine to form national federations in the late eighties and early nineties of the 19th century. This more or less paralleled developments in the rest of Europe and throughout the world, as witnessed by the first modern Olympic Games held in 1896. It was only then that legislators started to take note of sports. The beginnings of organised sports in the government sector in the Austro-Hungarian Monarchy were in the military sphere and in the school system.

The course of events resulting from the First World War - the break-up of the Austro-Hungarian Monarchy and the creation of the first Austrian Republic - delayed the introduction of specific sports legislation so that sports were able to develop freely, especially on the basis of the general right of citizens to form associations (explicitly confirmed in 1867). But the Ministries did have sports departments even in the period 1918 - 1938. After the end of the Second World War, a sports department was re-established within the Government Office for Popular Information, Schools, Education and Cultural Affairs.

Given the state of development of sports in 1920, the Constitution adopted in that year did not give the federal authorities any specific powers in the field of sports. This situation has not changed. Government action in the area of sports can only be taken by the constituent states - the Länder.

It was not before 1949 that the first statute on financial assistance to sports was adopted - the Sports Pools Act.

The Federal Sports Promotion Act 1969 enabled the government to subsidise sports on an explicit legal basis - not as the holder of sovereign power but as an actor in the sphere of private law.

The Federal Sports Promotion Act 1969 (as amended)

The Act defines the purpose of sports promotion as follows:

> *"**Section 1.**(1) The Federal Government promotes sports, provided the activities are of international and national importance."*

This means that the federal authorities adopted a self-imposed restriction on their promotion activities, which implies a substantive demarcation from the Länder, which have primary responsibility for sports promotion. "National importance" means matters which go beyond the interests of one Land or a number of Länder.

In particular, the following activities are supported:

a) sports events of international importance, such as Olympic Games, world championships, European championships, or sports events of national importance;

b) sports relations with other countries, which are important to Austria as a whole;

c) facilities or institutions serving international or national sports;

d) medical or scientific research, counselling, examination and treatment centres in the field of sports which are of national importance;

e) activities of clubs and associations which are of international or national concern to sports;

f) national sports conferences;

g) sports publications of international or national relevance.

Before support is given, the authorities consult with Austria's national sports federations.

Assistance under the Act may consist in grants under private law, annuities, interest or credit cost subsidies, or loans. Federal financial assistance may only be granted if the project cannot be started or completed without the provision of federal funds, or if it will only be started if federal funds are provided. In all cases it must be certain beyond reasonable doubt that the project is feasible.

Special assistance funds

From the receipts under the Public Lotteries Act the Federal Government assists the activities of organisations which render services to sports within the international or national framework. These funds may only be made available for the promotion of sports and more particularly of amateur sports. Recipients are the three umbrella organisations, the officially recognised specialised federations, the Austrian Olympic Committee and the Austrian Football (i.e. Soccer) Union. Currently the special funds channelled to sports out of the takings of lotteries and pools amount to ATS 400 million.

Construction and maintenance of federal sports facilities

The Federal Government constructs and maintains sports facilities for the purpose of promoting international or national sports. Currently there are eleven such facilities in Austria. Some of them are to be placed on an independent footing or privatised. It is hoped that this will make assistance and funding for sports more flexible.

Athletic achievement badges

Under the Act, the Federal Minister responsible for sports is authorised to create national athletic achievement badges. In order to encourage participation in sports, the Austrian Sports and Gymnastics Badge (ÖSTA) has been created in accord with the Länder. Given the constitutional division of powers and responsibilities for sports outlined above, the Länder have their own achievement badges as well.

Loan of federal school facilities

In order to underline the importance of sports especially for the nation's health and as an educational factor, the Act provides that facilities in federal schools may be made available free of charge to sports clubs and other organisations. They may, however, be required to pay operating costs.

Anti-doping activities (Federal Law Gazette No. 166/1991)

Within the terms of the Anti-Doping Convention of the Council of Europe, the Federal Government has set up an "Anti-Doping-Committee" under the auspices of the Austrian Sports Organisation: its membership is made up of two representatives each of the Federal Government, the Länder and the Austrian Sports Organisation and one representative of the Austrian Olympic Committee. The Anti-Doping Committee regulates the appropriate procedure for dope checks at sports competitions and during training and oversees the application of the anti-doping rules adopted under the Convention by all sports federations.

All sports federations in Austria have incorporated the anti-doping rules into their constitutions in the same way, so that a uniform approach to the prevention of doping is assured throughout Austria.

Convention on Spectator Violence (Federal Law Gazette No. 133/1988)

Austria ratified the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches in 1988. The steps required by the Convention to protect spectators at sports events against attacks are by now integrated into the relevant security codes and their enforcement is overseen by the appropriate authorities.

Sports Facilities Protection Act (Federal Law Gazette No. 456/1990)

This special protective law has the aim of preserving existing publicly owned sports facilities and to prevent their conversion to other than sports purposes.

Protection of Olympic Symbols (Federal Law Gazette No. 15/1992)

The law protects the "Olympic Rings" as well as the Austrian Olympic Committee's logo. Their illicit use carries an administrative fine of ATS 300,000.

Länder Legislation

As has been mentioned, Article 15 para. 1 of the Austrian Federal Constitution entrusts the field of sports to the autonomous sphere of activities of the Länder. The sports legislation of the nine Länder is based on this clause.

Given the geographic specifics of certain Länder, their legislation, in addition to the issues mentioned above, emphasises training for mountain guides and ski tour guides and regulations on how to operate ski schools.

SECTION 3: PUBLIC SUPPORT AND FUNDING OF SPORTS (FINANCIAL GRANTS)

Federal Government

The Federal Government provides about ATS 730 million in subsidies, 400 million of which come from the takings of lotteries and pools (see the appropriate Act mentioned above). These funds are distributed among private sports organisations under a scheme laid down by law.

Incidentally, it is worth mentioning that many of the officials of sports organisations in Austria work on a voluntary basis and receive no salaries.

About ATS 200 million come from general budget appropriations of the Federal Government. In accordance with the provisions of the Federal Sports Promotion Act, they are allocated to projects, events and the improvement and enlargement of high-standard sports facilities of special national or international interest (including grants to improve the qualifications of trainers and coaches).

The roughly ATS 130 million spent on the running and maintenance of federal sports facilities may be regarded as indirect subsidies to federations and clubs since the latter are allowed to use them at reduced rents.

Länder

The Länder's financial assistance to sports totals ATS 846 million, itemised as follows: Burgenland, ATS 25 million; Carinthia, ATS 60 million; Lower Austria, ATS 97 million; Upper Austria, ATS 160 million; Salzburg, ATS 74 million; Styria, 20 million; Tyrol, 60 million; Vorarlberg, 46 million and Vienna (which rates both as a Land and as municipality), ATS 304 million.

Local Authorities

Austrian local authorities (excluding Vienna) provide roughly between ATS 700 million and ATS 1 billion in financial assistance to sports.

APPENDIX

FEDERAL LEGISLATION

Federal Sports Promotion Act, Fed.Law Gaz

Decree concerning the Austrian Federal Sports Organisation, Fed. Law Gaz.

Amendment concerning the use of sports facilities, Fed. Law Gaz.

Amendment concerning assistance to be provided out of special funds (i.e. former sports pools), Fed. Law Gaz. 292/1986

Federal Law concerning training of PE and sports teaching staff, including curricula and the appropriate implementing regulations, Fed. Law Gaz., Fed. Law Gaz. 623/1975, Fed. Law Gaz., 70/1978, Fed. Law Gaz. 59/1980, Fed. Law Gaz. 70/1982, Fed. Law Gaz. 530/1992,

Federal Ministries Act 1973, amended whenever a new government is formed, Fed. Law Gaz.

Nationality Act 1965, Fed. Law Gaz.

Amendments of the Nationality Act, Fed. Law Gaz.

European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, Fed. Law Gaz.

Anti-Doping Convention, Fed. Law Gaz.

Sports Facilities Protection Act, Fed. Law Gaz.

Federal Law for the Protection of Olympic Symbols and Appellations, Fed. Law Gaz.

LÄNDER LEGISLATION

Burgenland
  Sports Promotion Act, 33/85

Carinthia
  Sports Act, 41/73, 6/90, 73/92
  Ski Schools Act, 52/66, 10/89, 3/90, 29/92, 62/92
  Mountain Guides and Ski Tour Guides Act, 55/82, 17/92, 61/93

Lower Austria
  Sports Act, 5710
  Law on the Special Împost for Culture and Sports, 3610

Upper Austria
  Sports Act, 61/85
  Sports Facilities Protection Act 1991, 54/91
  Ski Schools Act 1990, 1/91
  Mountain Guides and Ski Tour Guides Act, 36/75

Salzburg
- Sports Act 1988, 98/87
- Ski Schools Act 1989, 83/89, 54/93, 151/93
- Mountain Guides Act, 76/81, 84/89, 55/93

Styria
- Sports Act 1988, 67/88
- Sports Facilities Protection Act 1991, 11/91
- Ski Schools Act 1969, 211/69, 22/80, 13/89
- Mountain Guides and Ski Tour Guides Act, 53/76

Tyrol
- Sports Act, 65/72, 32/74
- Sports Education Act, 47/68, 61/73, 42/93
- Ski Schools Act 1995, 15/95
- Mountain Guides Act, 14/88, 119/93

Vorarlberg
- Sports Act, 15/72, 17/95
- Ski Schools Act, 35/90, 53/93
- Mountain Guides Act, 25/82, 52/93

Vienna
- Sports Act, 17/72, 12/80
- Sports Facilities Protection Act, 29/78
- Special Impost for Sports Act 1983, 27/83, 44/90, 73/90

BELARUS

LAW ON PHYSICAL CULTURE AND SPORTS OF THE REPUBLIC OF BELARUS

by S. Shushkevich,
Chairman of the Supreme Soviet of the Republic of Belarus
18 June 1993, Minsk

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Physical culture and sports in the Republic of Belarus are the integral part of the national culture and history of the Belarussian people. They favour the harmonious development of a personality, the attainment of longevity, the establishing of the healthy way of life.

The Law defines the legal, social and economic grounds for physical culture and sports development in the Republic of Belarus, regulates the participation of the state organs, enterprises, institutions, organisations, irrespective of their forms of property, as well as the officials in the strengthening of people's health by means of physical culture and sports.

The law is directed to:

- the application of physical culture and sports means in the interests of the personality and society;
- the priority development of the population's physical education, and, in the first place, of children and students;
- the organisation of the physical culture and sports practices in the sphere of education and training;
- the ensuring of the separate financing and economic stimulation of the activity in the field of physical culture and sports;
- the ensuring of the social and legal protection's guarantees of the citizens, occupied in the sphere of physical education and sports.

Section 1: The citizens' rights in the field of physical culture and sports

Article 1

Right to practising physical culture and sports

Citizens enjoy the right to practice physical culture and sport. State system of pre-school establishments, institutions, children's health-recovering sport schools, voluntary physical culture and health protection and sporting amalgamations of citizens united by the places of their residence, work, studies, in places of mass rest, of establishments, enterprises rendering the paid physical culture's services functions to ensure the right.

Article 2
Right to create physical culture amalgamations, sports clubs, associations

Citizens of the Republic of Belarus enjoy on the voluntary basis the physical culture and sports amalgamations, amateur and professional sports clubs, associations and other equal organisations, realising their activities in conformity with a valid legislation of the Republic of Belarus and with the Statutes of the international amalgamations.

Article 3
Right to professional sporting activity

The citizens of the Republic of Belarus enjoy the right to practise the paid professional sports activity. The period of practising of the professional sports is included in the working length of service in the order, established by the legislation of the Republic of Belarus.

Article 4
Right to commercial owner's activity and publicity

The citizens of the Republic of Belarus may practise the owner's activity by rendering services to the sports and physical culture organisations as well as to the private persons, to produce the sports and accompanying goods, to use the physical culture and sports in the publicity (activity) in accordance with the legislation of the Republic of Belarus. The emblems and the nominal symbols of the sporting of amalgamations and their property and can be used only by the consent of theses amalgamations.

Section 2: Management of physical culture and sports

Article 5
Organs of stage management

Functions of the state management in the field of physical culture and sports are carried out by the Council of Ministers of the Republic of Belarus, State Committee for Physical Culture and Sports of the Republic of Belarus, Executive Committees of the local Soviets of People's Deputies.

State Committee for Physical Culture and Sports of the Republic of Belarus realises the state policy in the field of physical culture and sports and directs its development through the corresponding bodies of regional, municipal, district Soviets of People's Deputies.

State Committee for Physical Culture and Sports of the Republic of Belarus realises its activity in accordance with the regulation, ratified by the Council of Ministers of the Republic of Belarus.

State Committee for physical culture and sports of the Republic of Belarus interacts its activity with the National Olympic Committee of the Republic of Belarus, voluntary sports societies, federations, other social amalgamations of physical culture and sports. The system of organs of state management of physical culture and sports is financed from the funds of republican and local budgets.

Article 6

Participation of the health-protection organisations in the development of physical culture and sports

Bodies of state management, physical culture and sports organisations and establishments work in close contact with the public health services.

The public health organisations at the expense of allotted means:

- realise the medical control of the citizens, practising physical culture and sports;
- determine the level of physical development of the population;
- create in the places of residence the corresponding centres and stations of the sanitation and rehabilitation by means of the physical culture, diagnostic and consultant stations, cabinets and dispensary, providing the physical culture and sanitation work with the population, based on the principle of its individualisation;
- extend the application of physical culture as a means of protection and treatment of diseases;
- organise and realise the training and raising the qualification of public health services experts on the effective usage of the main components of the physical culture (physical exercises, tempering, respiratory gymnastics, autotraining, massage and self-massage) and other means, which influence the strengthening of man's health;
- ensure the training of the pupils and students of secondary high schools on the problems of utilisation of physical culture's means with the treatment and sanitation purposes and with purposes of propaganda of healthy way of life.

Article 7

Ensuring of the sanitary and epidemiological well-being and radiation safety

The ensuring of the sanitary-epidemiological well-being and radiation safety in the places of practising physical culture and sport, at the tourist bases and tourist routes is realised in accordance with the valid legislation of the Republic of Belarus.

Article 8

Observance of safety regulations while practising physical culture and sport

Administration of physical culture and recreation, as well as sporting establishments and constructions ensures the appropriate technical equipment of the places where training and competitions are to be held in accordance with the safety regulations and sanitary-hygienic norms.

Persons having been specially trained in the organisations of physical culture and sports and certified in the established order as referees in different kinds of sports can be allowed to officiate sports competitions.

Specialists of physical culture and sports are responsible for the damage caused to the health of citizens, in the order, established by legislation of the Republic of Belarus.

Article 9

Propaganda of physical culture and sports

Mass media, organs of state management of physical culture and sports, public amalgamations of physical culture and sports direction are carrying out the propaganda of physical culture and sports, raise the population's level of knowledge in practical usage of all the components of physical culture for maintenance and strengthening of health, protection of the diseases, attainment of high level of work capacity and active longevity as well as humanistic ideals and values of sports and Olympic movements.

The propaganda of cult of brutality and violence, of man's dignity humiliation, the utilisation of the prohibited stimulators causing damage to the people's health is not allowed.

Section 3: System of physical education of the population

Article 10

Physical education of the children of early and pre-school age

Physical education of the children of early and pre-school age is aimed at their all-round physical and mental development. A family plays the leading role in physical education of children of pre-school age. Physical education is compulsory in kindergartens and pre-school institutions and is carried out in accordance with the well-grounded scientific programmes and sanitary norms.

Article 11

Physical education of the pupils of secondary, vocational and intermediate technical training schools

Physical education of the pupils of secondary, vocational and intermediate technical schools is carried out in accordance with the ordinary and extended school day regime, as well as during their out-of-school activity or individually. The physical education must correspond to a school curriculum and all-round physical education state programmes and sanitary norms. Physical education classes are compulsory and are held 3 times a week for a whole school year. Clubs and out-of-school sports organisations are being established to involve children into sports activities for an out-of-school period. Pupils with poor health attend special medical groups and groups of therapeutical physical training.

Article 12

Students' physical education

During the whole period of studying at the higher schools physical education is a compulsory subject. In conformity with the curriculum and study programmes no less than 4 hours a week are allotted to sports classes including all kinds of free sports training. Students with poor health have their sport classes in special health recovering groups and in groups of therapeutic physical training.

Article 13

Physical training held in the population's residence, places of work and rest

All the enterprises, institutions and organisations irrespective of their forms of property have to include among others physical training into the measures aimed at making the employees healthy, and to facilitate their employees' involvement in physical culture and sports.

Creation of material basis, its use, financing, providing with the specialists for organisation of individual and mass physical culture and sporting occupation of the employees, members of their families are determined by the Collective agreements and physical culture and sports programmes. The employers are made responsible for creation of conditions and organisation of the sanitation-recreational measures by means of physical culture in labour regime and after a working day.

Different amateur sports, sanitary tourist, patriotic clubs, teams and groups are organised in the population's residence to give masses access to physical culture and sports.

Local soviets of people's deputies take great care of physical culture and sports promotion in the population's residence, rest-homes inhabitancies, health-resorts etc. Besides, they render their assistance to different sporting organisations, supplying them with all the necessary sports constructions and equipment as well as the sporting grounds in the public parks and gardens, irrespective of their departmental belonging.

All the necessary conditions are created for the group, individual and family sport events, aimed at people's health recovering in health-resorts, rest-homes and holiday-hotels.

Article 14

Servicemen's and police force's sports training

Special bodies of state authority determine orderly servicemen and police forces physical training methods, forms and content. The level of physical training of servicemen and police forces must ensure the fulfilment of their official duty. Command officers and leaders have to promote their physical training improvement and hold tests annually to check their level of physical training.

Article 15

Physical culture and sports for disabled

Soviets of people's deputies ensure the specialised sporting facilities installation for health recovering and in accordance with the Law of the Republic of Belarus "on the social protection of the disabled in the Republic of Belarus" all the necessary devices for the disabled must be installed on the public sports equipment and facilities.

Organisation of physical culture and sports training in the system of continuous rehabilitation of mentally and physically retarded children, training of specialists, methodical and medical service, medical control for physical culture and sports training of disabled are entrusted with the organs of education, health protection, social services and physical culture and sports.

Section 4: Olympic movement international sports relations of the Republic of Belarus top class sport

Article 16

National Olympic Committee of the Republic of Belarus

Representation of sport of Belarus in the International Olympic Movement is the exclusive right of the National Olympic Committee of the Republic of Belarus, an independent public organisation which is guided in its activity by the Olympic Charter, legislation of the Republic of Belarus and its own statutes.

National Olympic Committee of the Republic of Belarus realises an activity which is independent from the state's organs and organisations.

Article 17

International relations

Sports organisations and athletes of the Republic of Belarus have the right to take part in the international sports events held either on the territory of the Republic of Belarus, or in other countries with observance of the rules of the competitions and statutes of the corresponding international organisations.

Presentation of the combined teams of the republic and individual athletes at the official international competitions and also representation of the Republic of Belarus in the international sports unions is the exclusive right of the state management organs of physical culture and sports, National Olympic Committee of the Republic of Belarus and corresponding federations on different kinds of sports within the limits of their competence.

Article 18

Top class sport

Top class sport is directed to the development of physical and spiritual capabilities of a person, stimulates the systematic involvement in physical exercises. Sporting competitions serve to the expansion and enhancing of co-operation, friendship and mutual understanding among nations.

Athletes can register their relations with the state management organs, public unions of physical culture and sports (sporting federations, associations, clubs, teams) by means of an agreement (contract) providing refunding and compensation for financial and other losses connected with the training and participation in the competitions; the athletes can enjoy all the rights of a hired worker, they have the right for a service pension in accordance with the valid legislation of the Republic of Belarus. Organs of state and public management, public unions of physical culture and sports, sporting federations, clubs, teams and other specialised sporting organisations and institutions allow athletes the necessary social facilities and conditions of life and provide with the safeguard of their health.

Article 19

Training of the sporting reserve

A net of child's-and-youth's specialised teaching and sporting institutions is being created for the purpose of sporting reserve training. It includes child's-and-youth's sporting schools, top sport schools, schools, colleges, Olympic training centres.

The right to create sporting institutions belongs to the organs of state management of the physical culture and sports, trade-union organisations, unions of voluntary sporting societies, federations, sporting clubs and private persons engaged in the organisation of their activity in accordance with the legislation of the Republic of Belarus.

Section 5: Education, personnel, science

Article 20

Organisation of physical education

The specialists for physical culture and sports are being trained in the Academy of physical education and sport of the Republic of Belarus, specialised faculties of the universities, pedagogical institutes and Olympic reserve colleges.

Training in the physical culture pedagogical institutions and at the physical education faculties is financed from the resources of the state budget, enterprises, organisations and institutions set aside for the special purpose of training specialists, and from the voluntary payments of philanthropic funds and separate persons.

Article 21

Engagement in pedagogical activity in the sphere of physical culture and sports

Persons having a diploma or a certificate (license) of special training are admitted to the pedagogical activity in the sphere of physical culture and sports.

Citizens who don't have the above-mentioned documents receipted by the authorised organs and confirming their qualification have no right to teach physical culture and sporting disciplines both as a primary and an additional employment.

Physical education instructors, coaches on kinds of sports who have not been working on their speciality after graduating from the higher educational institution for three or more years, or having stopped such a work have not resumed it during the indicated period of time, can be recommended to work on this speciality after passing an examination to the boards created at the organs and institutions of physical culture and sports in accordance with their competence.

Article 22

Raising of qualification and additional training of specialists

Raising of qualification and additional training of specialists are carried out by the Academy of physical education and sports of the Republic of Belarus, advanced training institutes for teachers, faculties for improvement of one's skill and other institutions on the contractual basis.

Article 23

Organisation of scientific researches

The determination of the priority trends and the general management of the scientific researches in the field of physical culture and sports are carried out by the State Committee of physical culture and sports of the Republic of Belarus.

Investigations on the problems of physical culture and sports are conducted by the professorial-instructor's personnel and scientists working in the system of the higher physical culture education, specialists necessary for accomplishment of scientific work are enlisted.

Section 6: Material resources and financing of physical culture and sports

Article 24

Material resources

Material resources of the Republic of Belarus are composed of all kinds of physical culture and health-improvement structures, that are situated on the territory of the Republic of Belarus, irrespective of the forms of property.

The state finances the building and exploitation of physical culture and health-improvement structures, and besides, it takes part in the development of the material resources of physical culture and sports within the place of residence and places of mass recreation of the people at the expenses of the local budgets. The organs of state management of physical culture and sports provide drawing the means and material resources from other sources, if it doesn't contradict the laws of the Republic of Belarus. Sports structures, objects of physical culture and health-improvement assignment and the areas, occupied by them, independently on their subordination are the state property and cannot be subject to privatisation.

Article 25

Development of the material resources of physical culture and sports

In dependence on the personnel of the enterprises, offices and organisations, irrespective of the forms of property the organ of state management establishes the standard of their minimum provision with the main physical culture and sports structures. The enterprises, offices and organisations may turn over the sports structures to the balance of the local soviets of people's deputies. It is not allowed to design and build the new and to reconstruct the existing pre-school institutions and schools without swimming-pools and sports halls. It is not allowed to liquidate the physical culture and health-improvement structures until equal to them will appear in this residential area.

Article 26

State financing and taxation

State financing of physical education of the population and top sport is carried out separately according to the state programmes.

Financing of fundamental and applied research in the sphere of physical culture and sports is carried out from the means of the customer organisations on the basis of agreement.

Financing of the child's-and-youth's schools irrespective of their departmental belonging is carried out at the expenses of the state budget, deductions of the enterprises and departments, sponsors' help, means of the owner's activities and other sources, which do not contradict the law of the Republic of Belarus and the statutes of the sports institutions. The state stimulates direction of the resources for financing physical culture and sports by using the methods of economic adjustment and favourable taxation. The order and size of taxation of income of enterprises, organisations and offices of physical culture and sports purposefulness are defined by the legislation of the Republic of Belarus.

BELGIUM

NON-PROFIT-MAKING ASSOCIATIONS

The decree of 3 July 1991 laying down the conditions to be met by sports federations before they qualify for official recognition and grants makes it binding on them to assume the legal form of a non-profit-making association governed by the Act of 27 June 1921.

This is therefore the most frequently encountered legal form within the sphere of sports.

Most sports clubs have also adopted this legal form, which allows them to enjoy legal personality separate from that of their members.

BUILDINGS OPEN TO THE PUBLIC

Insurance

The Belgian parliament has introduced rules whereby managers of premises open to the public (multi-purpose halls used to hold sports events, sports halls, shooting ranges, stadiums, and so on) have strict (no-fault) liability for personal injuries and pecuniary damage suffered by third parties as a result of a fire or an explosion.

At the same time, managers are required to take out civil liability insurance, failing which a building will not be permitted to open to the public or may be closed, without this affecting any criminal penalties that may be incurred.

Disabled persons

Under an Act of 17 July 1975, permits to construct buildings open to the public may be issued only where certain rules on access by people with disabilities have been complied with.

The law provides for grants to municipal or inter-municipal authorities in this respect.

The Walloon Region has included certain specific provisions on this subject in its Town and Country Planning Code.

Under-age visitors

Minors (people under 18) are forbidden access to premises where betting on sports results is permitted (see "Minors").

Safety

A number of rules on this subject are included in the general regulations on health and safety at work.

Following the tragic accident at the Heysel stadium, a royal decree of 17 July 1989 introduced safety standards to protect people attending events held in open-air facilities from the dangers posed by fire and mass panic.

In the event of failure to comply with these standards, the local mayor can decide to close the facility.

Lastly, Article 9 of the royal decree of 15 September 1994, regulating the use of airspace, bans aircraft from flying at less than a given height over an open air venue where a public gathering is taking place.

SPORTS CAMPS

Regulations issued by the Executive of the French-speaking Community on 10 and 11 May 1982 set out the rules governing grants for the organisation of sports camps, which are camps run for at least four full consecutive days with the aim of providing initial or advanced training in a single sport.

The grant covers a share of the remuneration paid to the instructors, who must have attained certain standards in their own training, a contribution to the remuneration of the person in charge of managing and co-ordinating the activities, where the camp caters for at least forty trainees, and a share in expenses, calculated in proportion to the number of trainees.

HIGHWAY CODE

A number of provisions on cycling have been added to the Highway Code, in particular by the royal decrees of 21 August 1967 (see "Cycling"), 25 March 1987 and 20 July 1990.

Article 50 prohibits the organisation of races and sports events on the public highway without permission.

Lastly, for the anecdote's sake, it should be pointed out that a symbol has been devised for use on road-signs to indicate the direction of sports facilities.

BELGIAN OLYMPIC AND INTER-FEDERATION COMMITTEE

This committee, a non-profit-making association in accordance with the decree of 3 July 1991, is an inter-federal organisation, consisting of sports federations recognised pursuant to that decree, which was set up to co-ordinate the social and economic aspects of the sports movement.

From the point of view of the French-speaking Community, the committee must fulfil the criteria for recognition and allocation of grants laid down in the decree of 3 July 1991 and the regulations issued by the Executive of the French-speaking Community on 7 November 1991.

Concerning the relevant legislation, please see the term "Sports federation".

JOINT COMMITTEE FOR SPORT

A royal decree of 10 August 1978 established a national Joint (employers and employees) Committee for Sport.

This committee is competent in respect of persons whose occupation is primarily intellectual in nature and their employers, and in respect of professional sportsmen and -women and their employers.

Its role is discussed in greater detail under "Social status".

JURISDICTION

The Institutional Reform Act of 8 August 1980 gave the French-speaking, Flemish and German-speaking Communities jurisdiction over cultural matters, including physical education, sport and outdoor activities.

However, the legislation already passed by the national parliament was not repealed and continues to apply within the French-speaking Community where it has not been abolished by decrees or regulations issued by the Community Executive (currently the government).

It should be said that the sports federations long defended the independence of their association-based movement, and the political authorities carefully avoided legislating in this area.

The first timid move came in 1958 when the national parliament envisaged regulating the sport of boxing (moreover, the Act of 31 May 1958 was not published in the official gazette until June 1962).

Today, the increasingly professional nature of certain sports, on one hand, and the ever more tangible need for public subsidies, on the other, have prompted the legislative authorities to become more active in regulating the organisation of sport in general and of sports federations in particular.

For instance, the French-speaking Community's decree of 3 July 1991 specified the conditions to be fulfilled before sports federations and co-ordinating bodies qualified for official recognition and grants.

Receipt of public subsidies therefore presupposes compliance with certain minimum criteria.

The French-speaking Community is also concerned with promoting the widest possible participation in sports activities through a variety of measures.

GAMING AND BETTING

As far back as 1902 parliament banned games of chance and the collection of related wagers.

However, the Act of 24 October 1902 did not apply to games decided by physical strength or skill or to betting on such games.

It was through an Act of 26 June 1963 that parliament regulated betting on the results of sports competitions, requiring the organisers of such games of chance to obtain a licence from the minister responsible for physical education and sport.

The same Act established the National Sports Fund, which derives its income from the proceeds of gaming and betting and redistributes at least 60% of the sums thus collected in the form of grants to recognised sports organisations and representative sports events at the national and international levels.

The rules governing the licensing process were laid down in a royal decree of 3 March 1964.

HIGHER BOARD OF PHYSICAL EDUCATION, ESTABLISHED BY THE ACT OF 26 JUNE 1963

The Higher Board of Physical Education, Sport and Outdoor Activities had two purposes: submitting proposals to the relevant minister on how the sums generated by the National Sports Fund should be allocated and giving opinions on draft regulations and budgetary measures in the field of sport (see "Gaming and betting").

Following the first constitutional reform, the Board's structure was changed by an Act of 4 June 1971, dividing it into two sections – one French-speaking and the other Dutch-speaking (see "Gaming and betting").

In the wake of the second constitutional reform of 1980, the Community authorities issued a decree of 23 December 1988 setting up the present Higher Board of Physical Education, Sport and Outdoor Activities under the Executive of the French-speaking Community.

The Board remains competent for giving opinions on any draft decree or implementing legislation relating to sports and has authority to give opinions, and even take action, on any matter outside the scope of the French-speaking Community's powers in that sphere.

It is made up of representatives of various circles and organisations.

PROVINCIAL ADVISORY BOARDS ON PHYSICAL EDUCATION, SPORT AND OUTDOOR ACTIVITIES

Like the Higher Board, the Provincial Advisory Boards, concerning which the legislation has not been expressly repealed but has fallen into abeyance, have authority to give opinions on any draft regulations and budgetary measures coming within the province's competence.

They were set up by a royal decree of 28 March 1974.

Local advisory boards may also be established.

GENERAL DIRECTORATE FOR SPORT

Although this document does not discuss the provisions governing the status of civil servants who, by statute, come under the authority of the minister responsible for sport, it nevertheless seemed of relevance that mention should be made of the Executive's regulations of 10 June 1991 stipulating the remuneration due to casual employees of the General Directorate for Sport and Tourism.

LEGISLATION APPLICABLE TO SPECIFIC SPORTS

As mentioned under "Jurisdiction", in the past the national parliament proved extremely reticent to involve itself with the rules governing sports federations, which asserted a right to operate as independent bodies.

The first legislation, on boxing, was passed in 1958.

The legislative authorities subsequently became most prolific in the fields of cycling and football, as a result of the increasingly professional nature of those sports.

Boxing

The Act of 31 May 1958 attempted to curb acts of violence during boxing matches, making them subject to criminal penalties.

A royal decree of 5 July 1962 laid down rules on the practice of the sport and the organisation of boxing matches and displays; it also set up a medical board responsible, inter alia, for checking the state of health of boxers taking part in matches.

On 10 May 1984 the medical board became a Community body by order of the Executive of the French-speaking Community.

Cycling – Cyclo-cross

As a general rule, cycling on forest tracks is banned under the Forestry Code (see "Environment").

A royal decree of 21 August 1967 set forth the regulations governing bicycle races and added a number of rules to the general road traffic regulations in order to guarantee participants' safety (see "Highway Code").

This royal decree has frequently been amended, firstly by the national parliament and subsequently by the Community legislators.

It stipulates the procedure whereby the mayors of the relevant municipalities issue permits to hold a race.

It makes it mandatory for the organisers of such races to take out civil liability insurance.

It also sets forth the criteria to be complied with by competitors, in particular a minimum age requirement.

In this connection, the authors of the royal decree of 3 April 1970 sought to protect racing cyclists who were still minors by introducing rules intended to prevent any accident which might result from a health problem suffered by a participant.

In the case of the French-speaking Community, that royal decree was repealed by regulations issued by the Community government on 28 May 1996.

The regulations instituted a medical examination, to verify participants' fitness to take part in cycling competitions, and a cyclist's competition record-book, which must be presented each time the holder takes part in a competition and becomes invalid if he or she is forced to retire from a race for physical reasons or after three consecutive retirements for other reasons.

They also set up a medical board for the sport of cycling.

Taking over from the national parliament, the Community legislators likewise concerned themselves with regulating the age of participants through a decree of 5 June 1985 on participation of young people under the age of 21 in training sessions and competitions held on or off the public highway and through the regulations issued by the Community Executive on 4 July 1985, stipulating the rules and conditions governing training of young cyclists between the ages of 12 and 15.

Anyone who has not reached their 15th birthday is banned from taking part in cycling competitions.

Cyclists between 12 and 15 years old must train under the supervision of instructors approved by the Community Executive.

Tests by age groups must be held over the period from 1 July to 30 September.

It should be noted that the Flemish Community has adopted its own specific regulations in this sphere.

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The national parliament's first legislation regulating professional sport applied to cyclists.

An Act of 7 November 1969 stipulated that holders of a professional racing cyclist's license issued by the Belgian Cycling League should be deemed to have an employment contract with that body.

Professional cyclists thus became entitled to social security cover, at least sickness and invalidity insurance, unemployment cover, family allowances and retirement and survivors' pensions (Article 6 bis of the royal decree of 28 November 1969). See under "Social status".

Football

Here too parliament took action to regulate the professional side of the sport.

An Act of 3 March 1977 made professional footballers subject to the social security system, with regard to sickness and invalidity insurance, retirement and survivors' pensions and family allowances.

Two royal decrees of 18 March 1977 set forth the rules on implementation of that Act and stipulated the date of its entry into force, extending footballers' social security cover to injuries sustained in the course of their work.

The tragic events at the Heysel stadium in 1985 led the Council of Europe to ask member states to accede to a European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, which was opened for signature in Strasbourg on 19 August 1985.

The French-speaking Community ratified this convention by a decree of 20 July 1988, as did the Belgian parliament by an Act of 18 April 1989.

The member states undertake, inter alia, to ensure that adequate public order resources are deployed at sports events, to facilitate co-operation and exchange of information between police forces and to apply, or even adopt, legislation whereby those found guilty of offences relating to spectator violence or misbehaviour will receive appropriate sentences.

They commit themselves to encourage the responsible organisation and good conduct of supporters' clubs, in particular through the appointment of stewards to accompany parties of supporters travelling to away fixtures.

The Convention also provides for measures concerning the physical facilities and organisation inside and outside stadiums.

It includes arrangements for international co-operation and identification of offenders.

A Standing Committee, responsible for monitoring the application of the Convention, has been established.

Readers are referred, in particular, to the section on "Safety" under "Buildings open to the public".

Various ministerial circulars concerning the practical steps to be taken to counter violence at football matches have been issued.

Lastly, it should be noted that, in the context of the organisation of Euro 2000, a safety committee has been set up in co-operation with the Netherlands authorities to take preventive action in respect of all kinds of safety risks.

Canoeing and diving

Movements of boats and divers on and in rivers are regulated by a decree issued by the government of the Walloon Region on 30 June 1994 (see "Environment").

Swimming

It should be noted that, although Belgium has made education a matter for the Communities, a decree issued by the Cultural Council of the French-speaking Community, which has not been repealed, stipulates that the State shall bear the financial cost of swimming lessons for children in the fifth and sixth years of primary education.

Motor sports

Organisation of races, training sessions and motor vehicle trials was regulated by a royal decree of 10 June 1976, but that decree was recently repealed by the government of the Walloon Region in regulations of 9 March 1995 amending the general rules on health and safety at work (see "Environment").

The royal decree, which remains in force in the Brussels-Capital region, draws a distinction between racing tracks and grounds in permanent use and those not intended to be used permanently for that purpose.

In the first case, licenses are issued by the Minister for Public Health subject to an opinion from an advisory board, which includes specialists on noise prevention and representatives of environment protection organisations.

In the second, it is for the permanent representation of the province within whose territory the racing track or ground is located to issue a permit after seeking an opinion from the province's inspector of hygiene or nuisances.

This national legislation was amended under regulations issued by the Executive of the Walloon Region on 19 October 1984 and 31 July 1986, which are mentioned here for the record.

In the Walloon Region applications for permits are now submitted under the general regulations on health and safety at work, to which readers are referred, and the Walloon government's regulations of 9 March 1995 lay down a number of transitional provisions.

As a rule, racing circuits not entirely located on a public highway are classified in category 1, and tracks or grounds located on closed premises in category 2.

The regulations on prevention of noise pollution also impose stringent rules on people taking part in motor sports.

This legislation is described under the heading "Environment".

Shooting

Under the legislation on firearms a category known as "hunting and sports guns" has been set up.

The provisions implementing the Act of 3 January 1933 are set forth in a royal decree of 20 September 1991.

Shooting ranges are classified in category 1 under the general regulations on health and safety at work (see "Environment").

It should be noted that a royal decree of 8 August 1994 introduced a European gun-owners' card, in accordance with an EU directive, which is issued to any gun-owner visiting a European Union member state.

Note

Other sports do not seem to be covered by any special legislation.

The various technical standards applicable in the field of aeronautics, for instance, which are not specific to sports activities alone, are deliberately not mentioned here.

DOPING

Unlike in the Flemish Community, this practice continues to be governed by the principles set forth in the Act of 2 April 1965, which prohibited the use of doping in sports competitions.

A royal decree of 25 March 1975 stipulated the membership and organisation of the anti-doping committee, which has now been replaced by a French-speaking anti-doping committee, established under the regulations issued by the Executive of the French-speaking Community on 26 August 1985.

A non-restrictive list of forbidden substances and methods was laid down in a royal decree of 22 April 1977, repealed in respect of the French-speaking community by the Executive's regulations of 10 October 1989, which have now been updated by regulations of 6 January 1992.

The law also regulates the performance of controls and the taking of samples.

Lastly, it imposes criminal penalties for breaches of the prohibition: an 8-day to 3-month prison sentence, a fine of BEF 26 to 2,000 (now multiplied by 200), and the possibility for judges to ban an offender from participating in or organising sports competitions on a permanent or temporary basis and to order publication of the judgement.

It should be noted that two co-operation agreements, dated 9 November 1990 and 11 December 1991, have been concluded between Belgium's three Communities, the first in the sphere of prevention of alcohol and drug abuse and the second on compliance with health constraints in the field of sports.

ENVIRONMENT

Articles 165 and 166 of the 1854 Forestry Code already regulated vehicular and other traffic within forests.

The Walloon Region's decree of 26 November 1987 updated those regulations.

An Act of 18 July 1973 on noise prevention introduced a number of measures to combat noise pollution caused, inter alia, by motor vehicles, while preserving the decentralised authorities' powers in this field.

Permits to operate facilities which may be used for sports competitions likely to cause noise pollution (in particular events involving the use of motorboats, jet-skis, hovercraft, scale models, microlights, motor vehicles, guns, etc.) are currently granted subject to the specific rules contained in the general regulations on health and safety at work, whereby the premises are classified in category 1 or 2.

The Walloon Region recently adopted regulations on movements of boats and divers on and in rivers.

Unless an exemption is granted, use of motorboats on non-navigable waters is prohibited, whereas the launching of boats and all forms of diving are forbidden at certain times of day and during certain parts of the year.

The aim is firstly to protect the water fauna and flora and secondly to limit disputes with anglers.

SPORTS FEDERATIONS

To be recognised by the French-speaking Community and thereby qualify for grants, sports federations must satisfy a number of minimum requirements laid down in the decree of 3 July 1991.

These include, in particular, compulsory adoption of the legal form of a non-profit-making association, guarantees concerning members' right to defend themselves in disciplinary proceedings and to prior information on the penalties incurred, freedom of transfer of members under the age of 12, a ban on transfer fees, except for the so-called training compensation, and the obligation to take out civil liability insurance and to pay compensation for physical injuries.

A federation is granted recognition for a period of six years, following an opinion from the Higher Board of Physical Education, Sport and Outdoor Activities.

Sports federations which do not fulfil the requirements concerning geographical distribution of branches or the minimum number of members may group together to form co-ordination associations.

Similarly, different sports federations, which have been granted recognition, may group together in inter-federation associations, an example being the Belgian Olympic and Inter-Federation Committee.

The procedure for requesting recognition is governed by regulations of the Executive of the French-speaking Community dated 7 November 1991.

Regulations issued by the government of the French-speaking Community on 22 December 1994 govern the provision of information to sports federations and their right of appeal in the event of refusal, suspension or withdrawal of recognition.

The same decree of 3 July 1991 governs the allocation of operating grants to sports federations recognised in this way.

The annual operating grant includes:

- a flat-rate contribution, fixed by the Executive;

- a share in staff costs; the Executive determines a maximum percentage contribution and the number of members of staff whose remuneration can be taken into account, regard being had to the number of members in the federation;

- a share in the cost of activities; here too a percentage, varying from 50 to 75%, is fixed by the Executive.

The practical aspects of the grants system are dealt with in the regulations issued by the Executive of the French-speaking Community on 7 November 1991.

The flat-rate contribution has been fixed at BEF 300,000 and is tied to the consumer price index.

With regard to staff costs, it should be pointed out that the maximum number of staff taken into consideration to calculate the grant is six (for federations with at least 10,000 members).

The contribution to the cost of activities takes account of various eligible expenses: secretarial services, computerised management systems, issue of periodicals or other publications, the cost of organising sports events, compulsory insurance, mandatory measures to combat doping, training of referees and judges, travel by federation officials, organisation of "sport and study" courses, popularisation activities, subscriptions to international sports organisations, subscriptions to co-ordination bodies and inter-federation associations, presence at statutory meetings of international sports organisations.

NATIONAL SPORTS FUND

Established under the Act of 26 June 1963 regulating betting on the results of sports competitions (see "Gaming and betting"), the National Sports Fund is responsible for managing the sums collected pursuant to that legislation and redistributing them to sports associations, clubs and events.

Section 8 of the Act provides that, unless exempted under a ministerial order, holders of licences to organise games of chance must pay the fund a share of the wagers, which is determined by royal order but cannot exceed 20% of the bets placed.

The rules governing the management of the National Sports Fund are laid down in a royal decree of 28 December 1964.

DISABLED PERSONS

The legislation on access by disabled persons to buildings open to the public is discussed under that term.

A decree of 5 July 1976 provides for grants to enable disabled persons to take physical exercise, practice sports and participate in outdoor activities.

Regional federations must first obtain recognition, which is granted subject to compliance with certain conditions.

Sports clubs may also be recognised in the same way.

Such regional sports federations and clubs are then eligible for grants, according to various rules laid down in the decree.

Grants are also made for purchases of sports equipment, campaigns to promote participation in physical education and sport and organisation of sports training sessions.

The recognition criteria were amended by a decree of 26 March 1981.

The grants procedure and rules are laid down in a royal decree of 16 October 1977, which has been amended on a number of occasions as a result of the transfer of responsibility in this sphere to the Communities.

DECORATIONS

A royal decree of 23 May 1939 introduced a sports medal, which is awarded in one of three categories – bronze, silver or gold – exclusively to Belgian citizens.

The medal is awarded by the minister after consulting the Higher Board for Sports Decorations, which was set up by a royal decree of 19 October 1959.

MINORS

In an Act of 15 July 1960 the national parliament, concerned to preserve moral standards among young people, banned minors from premises where betting takes place (greyhound tracks, racecourses (the ban concerns access to the enclosure where bets are placed)).

Managers of such premises are required to display notices concerning the ban, and if they fail to do so are subject to criminal penalties or, for a repeat offender, closure of the establishment.

The Act of 29 June 1983 on compulsory schooling stipulates that full-time attendance at school is mandatory for all children up to the age of fifteen. This means that children under that age are forbidden from taking up paid employment (also see the section on employment contracts under "Social status").

More recently, in an Act of 5 August 1992, the national parliament updated the Employment Act of 16 March 1971, laying down the principle that children under the age of 15 or still required to attend school full-time are banned from performing any work outside the scope of their education or vocational training.

Any activity which may adversely affect children's development, place them at risk of physical harm or have a detrimental effect on any other aspect of their wellbeing is likewise prohibited.

Individual exemptions are nevertheless possible.

Although the legislation does not expressly refer to sports, it is very broad in scope and could encompass such activities.

A royal decree of 23 May 1972 permits young workers to take part in sports activities on Sundays and public holidays; however, another royal decree of the same date does not expressly allow participation in such activities during the evening.

The national parliament and, subsequently, the Community legislative authorities have been most prolific in the sphere of bicycle racing, where training and racing by young people between the ages of 12 and 21 are strictly regulated.

For instance, under-age cyclists must be in possession of a competition record-book, which is valid only where the holder has passed a fitness test (royal decree of 3 April 1970).

Another example is that young people under the age of fifteen are banned from taking part in any cycling competition (decree of 5 June 1985).

Similarly, the rules stipulate that training by young cyclists aged 12 or over must take place under the supervision of approved instructors and that tests by age group may only be organised during the summer (regulations issued by the Executive of the French-speaking Community on 4 July 1985).

Readers are referred to the section on cycling under "Legislation applicable to specific sports".

YOUNG PEOPLE'S OR ADULTS' ORGANISATIONS

The French-speaking Community has arranged a system of grants for the training of monitors to supervise physical education, sports and outdoor activities in young people's or adults' organisations (solely non-profit-making associations) recognised by the ministry.

A decree of 10 July 1975 lays down the criteria to be met by courses and instructors in order to qualify for such grants and stipulates the procedure to be followed when applying for them.

The conditions to be fulfilled before the Central Directorate for Young People's and Adults' Organisations can award a certificate of qualification as a physical education, sport or outdoor activities instructor are specified in a ministerial decree of 20 May 1976.

Another ministerial decree of the same date stipulates the criteria to be fulfilled by adults' organisations applying for recognition: their purpose must not be to make a profit and they should promote the practice of physical, sports and outdoor activities, in particular among their members.

The amounts of such grants are determined in accordance with a royal decree of 23 July 1976.

PLAYING FIELDS

One of the spheres of responsibility of the National Institute for Physical Education and Sport, set up under an Act of 15 March 1956, was to make operating grants to playing fields (royal decree of 18 February 1961).

The institute was abolished by the Act of 26 June 1963 (see "Gaming and betting").

RECOGNITION

See "Sports Federations", "Belgian Olympic and Inter-Federation Committee", "Young People's and Adults' Organisations" and "Universities - schools".

HEALTH

Health matters are discussed under "Doping", "Cycling" and "Boxing", in particular.

SAFETY

Readers are referred to the comments on safety matters under "Football" and "Buildings open to the public".

A joint advisory committee on safety at sports events was set up under a ministerial decree of 9 August 1988, the aim being to comply with the European Convention adopted in Strasbourg on 19 August 1985.

The membership of this committee, known as the "Magotte" committee (cf. the committee's membership according to the ministerial decree of 1 December 1988), was recently amended by a ministerial decree of 11 October 1995.

Its primary focus is football since it is made up of four representatives of the Ministry of the Interior, two of the Ministry of Justice, three of local police forces, three of the *gendarmerie*, two representatives each for the Flemish and French-speaking Communities, one representative of the German-speaking Community, two representatives of the URBSFA, three representatives of academic or scientific bodies and one representative of the permanent secretariat for prevention policy.

SOCIAL STATUS

Employment contract

Growth in professional sport prompted the legislative authorities to introduce a specific employment contract affording increased social protection to professionals, known as the paid sportsman or –woman's employment contract.

As the legislation stands at present, the French-speaking Community distinguishes three categories of participants in sports:

- paid professionals, protected by an Act of 24 February 1978;

- professionals or semi-professionals not afforded protection under that Act, who, depending on whether there is a hierarchical relationship or not, either come within the ambit of the Act of 3 July 1978 on employment contracts or are self-employed;

- amateurs.

It should be noted that on 24 July 1996 the Flemish Community adopted extremely up-to-date regulations, which draw a distinction between professionals whose contracts are governed by the Act of 24 February 1978 and non-professionals, a term which covers all other participants in sports, whether amateurs, self-employed, professionals or semi-professionals, provided they are paid less than a given minimum amount, as explained below.

Paid professionals are those who have undertaken to train or to participate in competitions or displays under the authority of another person, in exchange for remuneration in excess of a given amount.

The amount in question is presently fixed by royal decree, subject to an opinion from the Joint Committee for Sport (see this term).

For 1997 this amount was set at BEF 520,116 (royal decree of 23 December 1996 published in the official gazette of 31 December 1996).

In accordance with the general principles of labour law, the notion of remuneration is defined in the Wage Protection Act of 12 April 1965.

The employment contracts of professional sportsmen and –women are governed by the Act of 24 February 1978; the particularity of such contracts is that the employee status they confer is deemed not to be open to challenge.

A contract is concluded for either an indefinite period or a fixed duration. Successive conclusion of a number of fixed-term contracts is permitted by law.

The legislation also covers the different circumstances in which early termination of a contract is possible. In the past, if a fixed-term contract was terminated without any serious ground before it expired the injured party was entitled to claim compensation in an amount equivalent to the remuneration remaining due until the expiry date, which could not, however, exceed twice the amount of the compensation due for termination of an indefinite contract (25% of annual salary), ie six months' remuneration.

The law nevertheless stipulated that exemptions could be granted by royal decree.

In view of sports professionals' tendency to end their fixed-term contracts before the date when they are due to expire, and after seeking the opinion of the Joint Committee for Sport, parliament recently passed legislation, in the form of a royal decree dated 10 January 1997, significantly increasing the amounts due for advance termination of contracts. The compensation due for termination of an indefinite contract currently varies according to the size of the salary being paid and, where this exceeds BEF 3,600,000, may be as much as eighteen months' remuneration.

A professional footballer with an annual salary in excess of BEF 3,600,000, who had concluded a fixed-term contract lasting four years, could therefore be required to pay compensation corresponding to 36 months' remuneration if he terminated his contract in the course of the first year.

It should also be pointed out that professionals cannot enter into an employment contract unless they have completed their full-time compulsory schooling, ie presently at the age of 15 (Act of 29 June 1983), and that the working hours of young people between 15 and 18 years old are strictly limited under the Employment Act of 16 March 1971 (as amended by the Act of 5 August 1992 on employment of children (see "Minors")), which also confers other rights on employees.

Other paid sportsmen and –women, whose remuneration does not reach the minimum amount mentioned above, can be considered bound by an employment contract governed by the Act of 3 July 1978 in so far as they carry on their activities under an employer's authority.

In the Flemish Community their status is now governed by the decree of 24 July 1996.

Such an employment contract is deemed to exist where three conditions are fulfilled: there must be a job, a remuneration and a hierarchical relationship.

Where there is no hierarchical relationship, a person taking part in sports who is remunerated for certain activities will be considered self-employed and, in that capacity, will not be entitled to the wide-ranging social protection afforded to professionals.

For instance, as we shall see below, there can be no question of any entitlement to disability insurance where an accident occurs in the course of a competition for which an entry fee is charged and the participant is remunerated.

Unpaid sportsmen and –women are not entitled to any social protection since their status is not governed by any legislation applicable within the French-speaking Community (in the Flemish Community the new decree also contains rules on the situation of amateurs).

It can be particularly difficult to define the dividing line between genuine amateurs and paid sportsmen and –women, as we shall see below.

Social security

Under the Act of 24 February 1978 the King is permitted to extend the cover available under the social security system to paid sportsmen and –women, after seeking the opinion of the Joint Committee for Sport.

This possibility has virtually never been used since the entry into force of the 1978 Act.

However, sportsmen and –women bound by an employment contract, whether governed by the Act of 24 February 1978 or the Act of 3 July 1978, are entitled to protection under the Act of 27 June 1969 on employees' social security, given the particularly broad scope of section 1 of that Act.

Failing a royal decree clarifying which sports participants are covered by the social security system, it is a matter of controversy at what point a sportsman or –woman should be regarded as receiving a remuneration and not mere reimbursement of expenses actually incurred.

Before the Act of 24 February 1978, rules governing the status of two categories of professionals had already been issued:

- racing cyclists, under an Act of 7 November 1969;
- and footballers, under an Act of 3 March 1977.

A person taking part in sports who is bound by an employment contract should therefore, in principle, be afforded different kinds of protection under the social security legislation (compulsory sickness and invalidity insurance (compensation and cover of health-care expenses), family allowances, retirement and survivor's pensions, unemployment insurance, annual paid leave entitlement).

However, a number of royal decrees have been issued which limit sports participants' cover under certain branches:

- Article 6 of the royal decree of 28 November 1969 implementing the Act of 27 June 1969, amended by the royal decree of 12 August 1985, restricts their social security entitlement to compulsory sickness and invalidity insurance for health-care expenses alone, membership of the salaried employees' retirement and survivor's pension schemes, family allowances, industrial accidents insurance, occupational diseases insurance and paid leave for educational purposes.

More recently, a royal decree of 14 July 1994 introducing a Consolidated Act on sickness and invalidity insurance (health-care expenses and compensation) stipulated that benefits were not payable to persons injured in sports competitions or training for such competitions, where the organiser of the competition charged an entry fee and the participant received a remuneration of any kind.

- Professional racing cyclists are in a fairly privileged position. The Act of 7 November 1969 stipulates that holders of a racing cyclist's licence issued by the Belgian Cycling League shall be deemed to have an employment contract as workers of that organisation.

Article 6 bis of the royal decree of 28 November 1969, implementing the Act of 7 June 1969 on employees' social security, extends professional racing cyclists' cover to unemployment insurance and to sickness and invalidity insurance in respect of compensation as well as expenses.

Strange to say, this Article 6 bis includes provisions whereby cyclists are deemed to have a contract giving them the status of employees, with the result that professional racing cyclists qualify as workers under labour law and as employees under social security law.

- Professional footballers' status is governed by the Act of 3 March 1977, which also restricts their cover under the Act of 27 June 1969 to certain branches of social security, ie compulsory sickness and invalidity insurance for health-care expenses alone, retirement and survivor's pensions and family allowances.

Under the Act of 3 March 1977 the King is entitled to extend their social protection but no royal decree has been issued to date, with the result that footballers are in the end afforded protection similar to that enjoyed by other sports professionals (apart from cyclists).

The sole criterion applicable under the Act of 3 March 1977 is whether or not there is an employment contract, irrespective of the amount of remuneration received.

Industrial accidents

The Act of 10 April 1971 applies to people wholly or partly subject to the provisions of the Act of 27 June 1969 on employees' social security.

The applicability of this legislation has recently been confirmed by an Act of 29 April 1996 amending the 1971 Act and adding a section 85, which defines paid sportsmen and –women as people taking part in sports who are bound by an employment contract.

A royal decree of 10 August 1987 lays down special conditions of application of the 1971 Act: with the exception of professional cyclists, who enjoy special status, this royal decree applies in theory to all paid sportsmen and –women, whether or not they are subject to the Act of 24 February 1978, in so far as they receive a minimum remuneration, which is fixed by royal decree after seeking the opinion of the Joint Committee for Sport.

A royal decree of 9 May 1988 set a figure of BEF 50,000 for the annual minimum fixed remuneration of football players not subject to the Act of 24 February 1978.

Since this is the sole royal decree implementing that of 10 August 1987, only a given category of footballer is affected by the special conditions of application of the 1971 Act, in particular stipulation of the basic remuneration to be taken into consideration, specific provisions which might give rise to insurance contracts that are financially more bearable for the clubs concerned, etc.

Family allowances

Sportsmen and –women with employment contracts are entitled to family allowances.

A royal decree of 27 January 1986 specifies the calculation method.

Sickness and invalidity insurance

A new section 136, sub-section 3 of the Consolidated Act (royal decree of 14 July 1994) recently amended the system to a significant extent by precluding the payment of benefits, even to cover the cost of preventive treatment or examinations, for injuries sustained during a competition (including preparatory training) where the organiser charges an entry fee and participants receive any kind of remuneration.

The legislative authorities have therefore adopted a system similar to that applicable to self-employed sportsmen and –women (see Article 27 of the royal decree of 20 July 1971).

Unemployment

Sportsmen and –women bound by an employment contract are not obliged to subscribe to the unemployment insurance scheme, with the exception of professional cyclists.

It is a matter of controversy whether an unemployed person who receives remuneration or benefits in kind for taking part in a sport activity remains entitled to unemployment benefits.

Readers are referred to Articles 44, 45 and 46 of the royal decree of 25 November 1991 establishing unemployment regulations and Articles 18 and 49 of the ministerial decree of 26 November 1991.

Persons registered as unemployed are permitted to do voluntary work for certain non-profit-making associations.

Other provisions

Lastly, it should be pointed out that:

- The Act of 24 July 1987 on work as a temporary or replacement employee and on the supply of workers to people requiring their services prohibits individuals or legal entities from making employees whom they have hired available to third parties under conditions other than those laid down in the Act, with a view to the third parties' using those employees' services and exercising, with regard to them, any part of the authority normally vested in an employer, failing which the employment contract shall be deemed invalid.

Investment companies would appear to come within the scope of this law.

- The royal decree of 28 November 1975 on fee-charging placement agencies sets forth the principle that a person may not serve as intermediary to procure employment for a worker and derive a direct or indirect profit from that worker or the person who hires him or her; this legislation would seem to apply to the activity of managers.

- Under a royal decree of 8 April 1989 paid sportsmen and –women, covered by Articles 6 and 6 bis of the royal decree of 28 November 1969, are not required to pay the wage moderation contribution.

GRANTS

The main legislation permitting the French-speaking Community to make grants to sports camps, sports federations, young people's and adults' organisations, playing fields and university or school sports clubs is examined under the relevant headings, to which readers are referred.

Medical centres specialising in treatment of sports injuries

To cover the operating expenses of such centres, an annual flat-rate grant is paid by the State for each sports participant examined. See the royal decree of 15 January 1973.

National lottery

The national lottery is a State body responsible for organising public lotteries, in the general interest, and allocating the resulting profits to various causes, in accordance with an Act of 22 July 1991.

The royal decree of 24 January 1997 stipulates that the public-interest causes to which a share of the national lottery's profits shall be assigned include development of all forms of physical education, sport and outdoor activities.

Sports equipment

Grants may also be made for purchases of sports equipment subject to the conditions and rules set forth in regulations issued by the Executive of the French-speaking Community on 10 and 11 March 1982.

Sports promotion material and campaigns

Grants may also be made for activities to promote sport subject to the conditions and rules laid down by the Executive of the French-speaking Community in its regulations of 2 December 1985.

The same applies to sports promotion schemes organised in accordance with the regulations issued by the Executive of the French-speaking Community on 5 December 1991, in which case the grants are intended to cover any deficit resulting from the provision of suitably qualified instructors.

Work on sports infrastructures

The legislative authorities have on several occasions enacted provisions allowing grants to subsidise work on sports infrastructures:

- The royal decree of 22 February 1974 (as amended by the regulations of the Executive of the French-speaking Community of 19 September 1991, which changed the title of the text) regulate aid from the State, and now the French-speaking Community, for work on sports infrastructures.

The grant normally covers 60% of the total expenditure.

- A decree of 20 December 1976 governs grants for certain work on buildings, equipment and fixtures and fittings in sports facilities, intended to encourage amateur sport. The grant covers 50% of the cost of the work, which must not exceed BEF 3,000,000 (see the decree of 5 November 1986), an amount which may be index-linked.

The practical arrangements are stipulated in a royal decree of 1 April 1977.

OLYMPIC SYMBOL, EMBLEM AND MOTTO

Under a decree of 30 March 1983 use of the terms "Olympic Games", "Olympiad" and "Olympic", the motto "Sitius, Altius, Fortius" and the Olympic emblem is the preserve of the Belgian Olympic and Inter-Federation Committee.

The same applies to the committee's own emblem.

Criminal penalties are imposed for breaches of this prohibition.

TELEVISION

By an order of the Executive, dated 23 May 1991, the TV Sports channel is licensed to broadcast within the French-speaking Community.

TRANSFERS

The decree of 3 July 1971 stipulates that to qualify for recognition sports federations shall be required to allow transfers to other clubs not later than one year after the expiry of the transfer period following the member's request, to transfer members under the age of 12 without imposing any conditions and to refrain from charging any transfer fee, without this affecting any grant of compensation for training payable by the old club to the new club.

Transfers of members between clubs belonging to the same recognised sports federation are governed by the regulations issued by the Executive of the French-speaking Community on 7 November 1991.

Sports federations have full discretion to decide on transfer periods. A committee has been set up to settle disputes concerning the application of the rules governing transfers set out in the decree, and the procedure is also stipulated.

UNIVERSITIES - SCHOOLS

A decree of 5 July 1985 lays down the conditions to be fulfilled by university sports centres and school sports federations seeking recognition and the criteria for making operating grants to such bodies.

They must comply with a number of requirements.

Recognition is granted for a period of ten years.

Grants include a flat-rate subsidy, a share of staff costs and a share of expenses incurred for activities.

The grants application procedure is set forth in regulations issued by the Executive of the French-speaking Community on 5 June 1986.

Other regulations, of the same date, stipulate the steps to be taken to implement the decree of 5 July 1985.

CROATIA

INFORMATION ABOUT THE NEW SPORT LAW OF THE REPUBLIC OF CROATIA

Croatian people belong to the oldest European nations. The first Croatian king TOMISLAV was crowned in 1925. However, due to some political and other reasons, Croatia regained its state and full independence after nine centuries. In spite of the wild and severe aggression committed against Croatia in 1991 by Serbia and Montenegro, following by extremely heavy destructions, damages, killings of tens of thousands of civilians, provoking over 40 000 new war invalids, etc…, the sports activities on domestic but also on many most important international competitions never stopped.

The first SPORT LAW of the Republic of Croatia was passed by the Croatian Parliament in 1993. Due to the new experiences, and especially activities of the Council of Europe – Department of Sports, different European conferences, etc… dealing with the sport matters, asked for important changes in the Sports law. This is why, it was decided to prepare the new SPORT LAW, which was passed by the Croatian Parliament in October this year.

Sports Structures

The most important sports body on the state level is the Ministry of the Education and Sports.

The Ministry of Education and Sports is supervising the legal and physical persons pursuing the sports activities, and organises the evidence of schools sport clubs, editorial evidence, while Ministry of Science and Technology leads evidence about the students sport clubs.

The Croatian Olympic Committee is leading evidence about the sports associations, and sports federations, about sport venues, sports competitions, international sport competitions, scientific and experts works in sports, financial activities in sports, sports edition policy. Ministry of Education and Sports is responsible for organisation and functioning of the State sports awards "FRANJO BUCAR" and for awarding the best Croatian sportsman with this award each year.

In all Croatian schools sports clubs will be formed and the different competitions on regional basis, and once a year on the state basis will be organised. With this aim, the Croatian Schools Sports Federation will be formed. The Ministry of Education and Sports will help financially the building and equipping the new schools sports halls and sports fields.

CROATIAN OLYMPIC COMMITTEE

As the most important non-governmental sport body in the Republic of Croatia is CROATIAN OLYMPIC COMMITTEE. All Croatian sports federations and other associations with the aim of promoting the sports, are members of the COC.

COC takes care for best possible functioning of sports, its development and development of the Olympic movement in Croatia. In its activities, the COC is independent.
COC has the following duties :

- promotes and inspects the whole sports activities in Croatia.
- participates and organises the political promoting of sports in Croatia.
- proposes the complete programme of sports activities and sports programmes in Croatia.
- participates in organisation of most important sport events and in the Olympic Games.
- co-ordinates the activities of national sports federations, cities and regional organisations.
- takes care for education of sport teachers and experts.
- promotes the positive Olympic ideas and other moral values of sports international bodies.

- organises and establishes the responsibilities and functioning of the arbitrary sports procedures and forms the arbitrary sports body.

SPORTS FINANCING

The basic means for sports financing are the financial means realised by sports activities of legal and physical persons through their sports activities, from memberships-fees, from lotto and lottery systems and by state and regional authorities financial contributions through budgets and other funds.

Public needs on the state level are different activities in connection with the promoting of all sports, and especially of sports for children, pupils and invalids. The public needs are realised by activities of the COC, national sports federations and federation of invalids, by organising national and international sports competitions, by special care for top sportsmen, by construction of different sports facilities, by expert works and supervising in sports, through state sports award "Franjo Bucar", through scientific work in sports, through organising different sports media facilities.

The programme of public care for sports is passed each year by the Croatian Parliament, and on the proposal by the Croatian Government, and through the State budget.

All the above mentioned needs and financial means, together with the financing from the state budget, are transferred to the COC. The COC must report to the Croatian Parliament annually about the use of the financial means received.

Ministry on the Education and Sports will finance the activities of the schools sports clubs and sports activities in Croatian schools, and necessary financial means will receive from the state budget.

The financing of sports activities in cities and in regions will be financed by the relevant authorities accordingly.

DIFFERENT APPROACH TO AMATEUR AND PROFESSIONAL ACTIVITIES IN SPORTS

The participation in sports activities could be made by amateurs and by professionals, in accordance with the stipulations of the law.

Professionals have contracts with their clubs/commercial companies and similar units working in sports/. Professional activities are allowed only on competitions on state level and on international competitions/ some exceptions are allowed.

All other sportsmen are amateurs. Amateurs sports clubs may assure to amateur sportsmen free access to sports facilities, may pay travel and other subsidies for accommodation, and may even give awards, also in money, for exceptional results and for important competitions.

SPORTS FACILITIES

Management and use of sports facilities are foreseen by the law. The Ministry of Education and Sports, in co-operation with the Ministry for Civil Works and Constructions / of sports facilities /, will give the standards and norms for construction of sport venues, and especially for sports activities for youth, recreation and invalids.

The law foresees the properties of sports venues as well as the responsible organ for their maintenance.

THE SPORT LAW IN CROATIA

Class:
Zagreb, October 3, 1997
House of Representatives
Parliament of the Republic of Croatia
President of the House of Representatives
Academician Vlatko Pavletić, signed.

GENERAL PROVISIONS

Article 1

Sport, in the sense as understood by this Law, comprises:

1. physical activities and games that are organised so as to attain sporting achievements realised according to defined rules of competition (sporting competitions),
2. physical activities and games that are done in an organised way for the improvement of health of for recreation,
3. the work of people who train (prepare) other people for participation in sporting competitions or sporting events or who plan, organise and run activities as defined by Points 1 and 2 of this Article (trainers, instructors, teachers, recreation leaders and so on),
4. the business of people who take part in the organisation and running of sporting competitions or sporting events (referees, timekeepers, organisers, programme leaders and so on).

Article 2

Sporting activities, in the sense as understood by this Law, comprise:

1. taking part in sporting competition,
2. sporting recreation
3. training for sports
4. the management of sports facilities

Sporting activities also include organised extra-curricular or outside-school physical activities and games by students or pupils, and physical activities and games of disabled persons.

The sporting activity of taking part in sporting competitions includes the business of organising and running competitions and training for competitions.

Sporting activities are done, under the conditions prescribed by this Law and the regulations for its implementation, by domestic and foreign legal and physical entities.

Whether a certain activity is a sporting activity in the sense as understood by this Law will, in dubious cases, be determined, after seeking the opinion of the Croatian Olympic Committee, by the Ministry of Education and Sport.

Article 3

The Republic of Croatia has a particular interest in physical activities and games that are organised and carried out for the improvement of the health of children and young people, or for the improvement of the health and recreation of disabled persons, and for the attainment of supreme sporting achievements.

Article 4

Professional activities in sport comprise the organising and running of sporting competitions and sporting events, running associations (sporting clubs, clubs for sporting recreation and son on) and other legal entities that carry on sporting activity, and other matters as defined by Article 1 Points 3 and 4 of this Law.

Article 5

A sportsman (includes sportswoman), in the sense understood by this Law, is a person who takes part in sporting competitions or sporting events as a member of a sporting club or establishment or a company that carries on the business of sporting competition or as a person who carries out sporting competition independently.

A top sportsman, in the sense understood by this Law, is a sportsman who has been assigned this status by the Croatian Olympic Committee, pursuant to the criteria and measures laid down by its own regulations.

CARRYING OUT SPORTING ACTIVITIES

Article 6

Sporting activities, under the conditions prescribed by this Law, are carried out by associations (sporting clubs, sporting recreation associations and so on), establishments, companies and physical (i.e, private – tr) persons independently.

Governmental agencies that keep registers of legal and physical persons that independently carry out economic or professional activities are bound to inform the Ministry of Education and Sport and the Croatian Olympic Committee about every entry of a legal or physical person founded (sic) to carry out sporting activities, changes of entries or deletion of entries from the register.

Article 7

Sporting clubs, establishments, companies and physical persons registered to carry out the sporting activities of taking part in competitions must have the appropriate sporting facilities, sporting equipment and must satisfy other requirements (persons professionally qualified to carry out the work and so on) determined by the national sporting federation that lays down the sporting competition system. For various levels of competition (borough, city, county or national) different requirements may be laid down.

The Minister of Education and Sport prescribes what the sporting facilities and sporting equipment are that legal and physical persons registered to carry on sporting activities of sporting recreation, sporting training and managing sporting facilities must have.

The Minister of Education and Sport, together with other ministers competent for appropriate areas, prescribes what sanitary, safety and other conditions must be satisfied by sporting facilities as described by Paragraphs 1 and 2 of this Article.

It is considered that a sporting club, an establishment, a company or a physical person registered to carry out a sporting activity does have the sporting facilities or sporting equipment if it/he has a proof of ownership, a proof of management on the basis of the permission of the owner or a contract to lease for the period in which it/he carries out the sporting activity.

A sporting club, establishment, company or private person registered to carry out some sporting activity can start to carry out its activity after the Ministry of Education and Sport has determined that it does have the prescribed sporting facilities, sporting equipment and meets other prescribed conditions.

Article 8

Participation in sporting competitions is done on an amateur basis, but under conditions prescribed by this Law can be done professionally as well.

Professional participation in sporting competitions means that persons who as competitors take part in sporting competitions have a professional contract with a sporting club or an establishment or a company for which they take part in sporting competition or that in an individual sport they take part as persons who carry out an independent sporting activity.

Professional participation in sporting competitions is allowed only in national level or international level competitions.

Exceptionally to the provisions of Paragraph 3 of this Article, if a sporting club or establishment or company or physical person as described in Paragraph 2 of this Article loses the right to compete at national level, it/he can take part at a lower level of competition the next competition season.

If a sporting club or establishment or company or a person who carries out an independent sporting activity in an individual sport loses the right to take part in sporting competition in line with the provisions of Paragraphs 3 and 4 of this article, the contract entered into with a person who takes part in sporting competitions on the basis of the professional contract as defined by Paragraph 2 of this Article ceases to be valid on the first day in the month after the right to take part professionally in sporting competitions is lost.

Article 9

Associations, establishments, companies and physical persons who carry out a sporting activity independently can in carrying out the activity of sporting training issue persons whom they have trained to know certain physical activities and games certificates about the degree of training they have achieved.

The form and contents of the certificate as defined by Paragraph 1 or this Article will be prescribed by the Minister of Education and Sport.

Article 10

Persons who have been convicted with force of law of a crime against the Republic of Croatia, of a crime against values protected by international law, of a crime against sexual freedom and morality, for a crime against marriage, the family and young people, of a crime of theft, grand theft, robbery and robbery with theft, of a crime against health and people, cannot take part in sporting competitions or enter into employment for the purpose of carrying out professional activities in a sport or carry out any sporting activity independently for three years after having served a sentence, being pardoned for the crime, or after the crime has come under the statute of limitation.

1. Associations (sporting clubs, associations for sporting recreation and so on)

Article 11

Domestic legal and physical persons can, for the purpose of carrying on the sporting activities of taking part in sporting competitions, sporting recreation, sporting raining and managing sports facilities, set up associations to the establishment, organisation, legal status, registration and cessation of which the provisions of the Law about Associations apply unless this Law determines differently about some of these questions.

Associations as defined by Paragraph 1 of this Article are non-profit making legal persons.

Article 12

Associations that carry out the activity of taking part in sporting competitions of one sport are founded under the name of sporting club, and of several sports under the name of sporting association (in subsequent text both king of associations are referred to as sporting club) and these are the basic legal persons in the organisation of sport, while competitive sporting activity is carried out on an amateur basis (an amateur sporting club) or professionally (a professional sporting club).

Sporting clubs, as well as competitive sporting activities, can also carry out other activities as defined by Article 11 of this law.

Sporting clubs as defined by Paragraph 1 of this Article that do various sports can combine in a sporting association.

Article 13

For those of their members who take part on an amateur basis in sporting competitions or sporting events or in sporting training or sporting recreation or for other of their members who on an amateur basis undertake matters of training for competitions and other matters in connection with the organisation and running of competitions or sporting events of sporting training of sporting recreation, amateur sporting clubs can provide free use of facilities and equipment, cover travel expenses, subsistence expenses, and compensate for lost earnings in connection with a competition or a sporting event. To their members who take part in an amateur basis in competitions or sporting events, and to professional persons, amateur sporting clubs can give rewards for results achieved, support in money (scholarships, support to cover the costs of extra diet and so on) and in equipment, send them to special training and competitions (open championships, tournaments and the like.)

Amateur sporting clubs can provide their members with the free use of facilities and equipment.

Amateur sporting clubs can employ persons to train their members to take part in sporting competitions.

Amateur sporting clubs determine the rights as defined by Paragraphs 1 and 2 of this Article by their own general regulations.

Article 14

In national or international level competitions sporting clubs with professional status (professional clubs) can take part. Professional clubs are non-profit-making legal persons.

The national sporting federation, while determining the system of a competition, will determined the number of clubs with professional status, and the conditions that clubs have to meet to achieve professional status.

Professional clubs with persons who professionally carry out the business of taking part in sporting competitions (professional sportsmen) enter into contracts about professional playing, by which they arrange the questions of remuneration for playing, and other remuneration for taking part in sporting competition and the scope of other rights and obligations.

The status of a professional sportsman, and the rights and obligations in connection with his work, insurance and other things, are arranged by the regulations of the professional club. The regulations of the professional club also arrange in an appropriate way the rights as defined by Article 13 Paragraph 4 of this Law.

A professional club, in professional questions from the area of its activity, acts in accord with the regulations of the national sporting federation of which it is a member and in accord with the regulations of the given European and world federation that this national sporting federation is a member of.

2. *Establishments and companies*

Article 15

For the purpose of carrying out the sporting activities of taking part in sporting competitions, sporting recreation, sporting training and management of sporting features, domestic legal and physical persons, units of local government and self-government can found establishments and companies.

Article 16

Companies that carry out the sporting activity of taking part in sporting competitions cannot share out the profit obtained by the carrying out of this activity, but have to use it exclusively to carry out and develop the sporting activity of the company.

Article 17

One legal or physical person can have at most 25% of the value of the shares of a company set up to carry out the activity of taking part in sporting competitions.

Units of local self-government and units of local government and self-government can be the only members of a company that carries out the activity of taking part in sporting competitions.

3. *Physical persons*

Article 18

Physical persons can carry out the sporting activity of taking part in sporting competitions, sporting recreation and sporting training independently.

Physical persons can carry out the sporting activity of taking part in sporting competitions independently (the sporting activity of independent sportsmen) only in individual sports and only in national or international level competitions.

Article 19

Carrying out the sporting activities of independent sportsmen of taking part in sporting competitions, the organising of sporting recreation, and sporting training is entered in the register of sporting activities done independently kept at the Ministry of Education and Sport.

Article 20

The Minister of Education and Sport will prescribe, after obtaining the opinions of the relevant national association of persons who carry out the professional activity of sporting training, the necessary professional qualifications for carrying out the sporting activities as defined by Article 18 Paragraph 1 of this Law. It is considered that a person who has obtained the status of a top sportsman is professionally qualified to carry out sporting activities as defined by Article 18 Paragraph 1 of this Law.

The Minister of Education and Sport with the agreement of the Minister of Health will prescribe if there is a special health qualification required for carrying out the sporting activities as defined by Article 19 Paragraph 12 of this Law, and if so what.

Article 21

A person who satisfies all the following requirements can be entered into the register of sporting activities that are carried out independently:

1. being a Croatian citizen
2. being completely competent to handle a business
3. being competent from the point of view of health
4. being professionally qualified to carry out a given sporting activity
5. not being employed and not carrying out some other activity independently (i.e. being self-employed – tr.), except in a case as defined by Paragraph 23 of this Law
6. being worthy of carrying out the sporting activity.

Article 22

A person who is entered into the register of sporting activities that are done independently loses the right to do this activity:

1. if he loses his Croatian citizenship, from the day on which the decision determining the cessation of citizenship becomes legally effective
2. if he loses complete competence to handle a business, from the day on which the decision depriving him of business competence becomes legally effective
3. if he becomes permanently unable by reasons of ill-health to carry out the sporting activity
4. if he becomes employed or if he starts some self-employed activity, except in case as defined by Article 23 of this Law, from the day on which he starts working or the day of the entry of the other activity which is done by way of self-employment into the register
5. if he sentenced to a (not suspended) prison term of six months, from the day on which the sentence becomes legally effective

In cases as defined by paragraph 1 of this Article, the Ministry of Education and Sport will delete the carrying out of the sporting activity from the register of sporting activities that are done independently, and the person who was entered in the register will be issued with (a copy of) the ruling about the deletion;

The carrying out of such an activity will be deleted from the register of sporting activities that are carried out independently in the event of the death of the entered person or at his or her own request.

Article 23

Persons who carry out the activity of sporting recreation as a self-employed occupation can carry out this activity in combination with a catering and tourist activity.

THE ASSOCIATION OF LEGAL AND PHYSICAL PERSONS WHO CARRY OUT SPORTING ACTIVITIES

Article 24

Sporting federations, communities of sporting associations and federations and communities of sporting associations are founded in order to promote the carrying out of sporting activities and the achievement of other common interests, especially for the purpose of taking part in sporting competitions: national sporting federations at the national level, and sporting federations and communities of sporting associations and federations at the level of the county and the City of Zagreb, and communities of sporting clubs or sporting associations at the city and borough level can be founded.

Article 25

(1) Members of the sporting federations as defined by Article 24 of this Law are sporting clubs from this sport and companies and establishments as defined by Article 25 of this Law who carry out the sporting activity of taking part in sporting competitions in this sport.
(2) Sporting federations in a county of the City of Zagreb are founded if in their region in various cities of boroughs there are at least 3 members as defined by Paragraph 1 of this Article.

(3) Members of national sporting federations are the sporting associations and sporting federations of the counties and the City of Zagreb for the same sport.

(4) A national sporting federation will be founded if in the Republic of Croatia, with the proviso that they are in various counties including the City of Zagreb, there are at least 3 members as defined by Paragraph 1 of this Article.

(5) In the Republic of Croatia for a single sport only one national sporting federation can be founded.

(6) In any doubtful case, an opinion as to what is to be considered the same sport in the sense understood by this Law will be given by the Croatian Olympic Committee.

Article 26

(1) The members of communities of sporting associations and federations in a county, or the City of Zagreb, are all the sporting clubs and companies and establishments as defined by Article 15 of this Law and sporting federation from the area of the county, or the City of Zagreb.

(2) The members of a community of sporting associations that can be founded in a city, or in a borough, are all the sporting clubs and companies and establishments as defined by Article 15 of this Law.

(3) Members of a community as defined by Paragraphs 1 and 2 of this Law can be other associations (sporting recreation associations) the activity of which is of interest for sport as well.

Article 27

(1) Sporting federations, in their sphere of activity at the appropriate level, particularly:
encourage and promote the given sport, or sporting activity, co-ordinate the activities of their members, organise and carry out the system of competition, settle questions related to the registration of sportsmen and other people engaged in sports, as well as the disciplinary responsibility of sportsmen and other people engaged in sports, care for the advancement of professional work and the qualification of professional workers, and the advancement of sporting achievements, care for top sportsmen, and carry out other matters and tasks determined by the law, their charters and the rules of the national sporting federation.

(2) National sporting federations, apart from the tasks as defined by Paragraph 2 of this Article, supervise their own branch of sport, organise national sporting championships, look after the national team in the sport, and represent their branch of sport at the appropriate international sporting associations.

Article 28

(1) Communities of sporting associations and federations within the area of their competence particularly:

- define and achieve the policy of promoting sport in their area,
- encourage and promote sport in general especially sport for children and young people,
- co-ordinate the activities of their members,
- unite and harmonise the programmes of sport and make proposals for the elaboration of a programme of public needs in sport and make sure that it is realised,
- look after top sportsmen and take part in creating conditions for their preparation for the Olympic Games, world and European championships, and other great international competitions,
- take part in the realisation of the programme and policy of the Croatian Olympic Committee.

- take part in the improvement of professional work and care for the qualification of professionals,
- carry out other matters and tasks defined by the law, the rules of the Croatian Olympic Committee and their rules.

(2) Communities of sporting associations founded in cities and boroughs carry out the tasks as defined by Paragraph 1 of this Article in their own areas.

Article 29

(1) Special associations in which legal person (sporting clubs, establishments, companies) that take part in sporting competitions associate, associations of professionals in the same sport (referees, trainers, health care workers), and associations in which sportsmen of the same sport associate, can be founded as members of the national sporting federations.

(2) Professional clubs and professional sportsmen can associate in special associations of professional clubs or associations of special sportsmen if this is possible according to the rules of the appropriate international sporting association. These special associations are members of the national sporting federations.

(3) Sporting clubs of disabled persons and other associations that are founded for the purpose of physical activity and games that are done for the advancement of the health and recreation of disabled persons combine in the Croatian Disabled Persons' Sporting Federation, which lays down the system, conditions and organisation of sporting competitions, and takes care of and participates in the organising of the Para-Olympic Games and other important international sporting competitions and events in which disabled people take part. The Croatian Disable Persons' Sporting Federation is associated with the Croatian Olympic Committee.

Article 30

Provisions of the Law about Associations apply to the founding, organisation, registration and cessation of the communities and federations as defined Article 24 and of associations as defined by Article 29 of this Law, unless some of these questions are otherwise provided for in this Law.

THE CROATIAN OLYMPIC COMMITTEE

Article 31

(1) The Croatian Olympic Committee is the highest non-governmental national sporting federations and other associations whose work is important for the promotion of sport are associated, in line with the rules of the Croatian Olympic Committee.

(2) The Croatian Olympic Committee will set up sub-committees in other countries in which expatriate Croats live, if this is in accord with the regulations of these countries.

(3) The Croatian Olympic Committee creates conditions for the unhindered development of sport and the Olympic movement in Croatia.

(4) The Croatian Olympic Committee is independent in its work.

Article 32

(1) The Croatian Olympic Committee is a legal person, and the provisions of the law by which associations are governed apply to its founding, organisation, legal status, registration and cessation, if none of these questions are otherwise provided for in this Law.

(2) The Croatian Olympic Committee is also organised according to the principles of the Olympic Movement, the Olympic Charter, the International Olympic Committee and the needs of Croatian sport.

(3) Through its regulations, the Croatian Olympic Committee defines its organisation and manner of work, its membership and the way the rights and obligations of its members are achieved, the way the symbols and emblems of the International Olympic Committee and the Croatian Olympic Committee are used and protected, and other questions in connection with the sphere of influence and tasks of the Croatian Olympic Committee as defined by Article 33 if this Law.

Article 33

The tasks of the Croatian Olympic Committee are:

- to encourage, promote, supervise and protect sport in general in the Republic of Croatia
- to take part in determining and achieving the policy by which sport in the Republic of Croatia is promoted
- to recommend programmes for all kinds of sporting activities and in particular a programme for the public needs of sport in the Republic of Croatia
- to care for and take part in the organising of the Olympic Games and other important international sporting competitions and events
- to co-ordinate the activities of national sporting federations, and communities of sporting associations and federations in the counties and in the city of Zagreb for the realisation of the overall sporting programme
- to carry out and care for the application of international sporting rules, and to pass regulations in connection with their application
- to work on the promotion of professional (or expert, tr-) work in sport and to care for the qualification of professional workers
- to take care of the promotion of top sporting achievements of Croatian sportsmen and sportswomen and to take care of their participation in national sporting teams in the Olympic and Mediterranean games, European and world championships, and other great events
- to promote the linking of the Republic of Croatia through sport and other democratic countries in order to get closer to other peoples, to bring sportsmen and other persons engaged in sporting events closer together
- to take care about the dissemination of the Olympic principles, and of ethical and moral standards in sport
- to take care of the protection of the symbols and emblems of the International Olympic Committee and the Croatian Olympic Committee
- to represent Croatian sport in general before the International Olympic Committee and other appropriate international sporting organisations and associations
- to carry out other tasks as laid down by this Law, by other regulations and rules of the Croatian Olympic Committee.

Article 34

(1) There is a permanently established court (sporting arbitration commission) at the Croatian Olympic Committee

(2) Sportsmen and other physical persons who carry out some sporting activity, legal persons who carry out a sporting activity, and sporting associations can agree on the authority of the sporting arbitration commission to decide on disputes arising in connection with the carrying out of a sporting activity.

(3) The regulations of the Croatian Olympic Committee lay down the authority (competence, tr.), composition and organisation of the sporting arbitration commission and its rules of procedure.

Article 35

(1) The sporting arbitration commission of the Croatian Olympic Committee decides on a request for an extraordinary investigation of the decisions of sporting associations as defined by Article 24 of this Law against which all other means of legal protection are either exhausted or do not exist, when it is a dispute or question that is important for the performance of the tasks of the Croatian Olympic Committee, as laid down by this Law.

(2) The rules of the Croatian Olympic Committee lay down the competence, composition and organisation of the sporting arbitration commission and the rules about the procedure as defined by Paragraph 1 of this Article.

FINANCING SPORTS AND ENCOURAGEMENTS FOR THE CARRYING OUT OF SPORTING ACTIVITIES

Article 36

The basis for the financing of sports is constituted by the revenues that legal and physical persons who carry out a sporting activity make by carrying out the sporting activity, membership fees, part of the revenue obtained from holding lotteries, and the funds through which units of local government and the state help the carrying out of sporting activities.

Article 37

(1) The Republic of Croatia, the counties, the city of Zagreb, the cities and the boroughs define the public needs in sport and provide financial resources for their realisation from their budgets in line with this Law.

(2) While the programme as defined by Paragraph 1 of this Article is being determined, the starting point is the needs and possibilities for market relations and achievements in the sport of the contemporary world.

Article 38

(1) The public needs in sport at a national level are activities, affairs and activities connected with:

1. the encouragement and promotion of sport in general, especially sport for children and young people and disabled people
2. the activity of the Croatian Olympic Committee and the national sporting federations and the Croatian Disabled Persons' Sporting Federation
3. the organisation and carrying out of national championships and international sporting competitions at the national team level
4. special care for top sportsmen
5. maintaining and constructing facilities important for the republic
6. awarding the Franjo Bucar national sporting awards
7. carrying out expert supervision in sport
8. the international obligations of the Republic of Croatia in sport
9. research and development and professional work and education and information work in sport, which constitutes a basis for o serves the realisation of the public needs as defined by Paragraph 1 points 1 to 8 of this Article.

(2) The programme of public needs as defined by Paragraph 1 of this Article is passed by the Parliament of the Republic of Croatia at the recommendation of the Government of the Republic of Croatia, together with the national budget.

(3) Funds to satisfy the public needs as defined by Paragraph 1 of this Article which refer to the encouragement and promotion of sport in general, the work of the Croatian Olympic Committee and national sporting federations and the Croatian Disabled Persons' Sporting Federation, the organising and carrying out of national championships and international sporting competitions at the national team level, special care about top sportsmen, the maintaining and constructing of sports facilities of importance for the Republic of Croatia, carrying out expert supervision in sport, research and development and expert work, and educational and information work in sport in connection with the previously mentioned needs are financed from funds that are made up of 33.3% of the profit of the Croatian Lottery d.o.o., deriving from the holding of lotteries, which the Croatian lottery transfers to the account of the Croatian Olympic Committee, as well as from funds which are provided in the national budget and set aside to the account of the Croatian Olympic Committee.

(4) The Croatian Olympic Committee submits an annual report to the Parliament of the Republic of Croatia about the implementation of the programme of public needs and the spending of the financial resources as defined by Paragraph 3 of this Article by the dates that are prescribed for the annual report about the implementation of the national budget.

(5) Funds to meet the other public needs as defined by Paragraph 1 of this Article which relate to the financing of the sporting activity of pupils' sporting clubs, the financing of organised physical activities that are done for the sake of the advancement of the health and physical condition of children and young people, and the awarding of the national Franjo Bucar awards for sport are provided in the national budget and set aside to the account of the Ministry of Education and Sport, and funds meant for the financing of the sporting activities of student sporting clubs are provided in the state budget, and set aside to the account of the Ministry of Science and Technology.

Article 39

(1). Public needs in sport the funds for which are provided from the budgets of the counties, the City of Zagreb, the cities and the boroughs, are activities, affairs and works that are defined as being of local importance, in connection with:

1 encouraging and promoting sports,

2 carrying out part of the programme of physical and health culture for children and young people,

3 the work of sporting federations and communities of sporting associations and federations in a county and in the City of Zagreb, or the communities of sporting associations in a city or a borough.

4 the work of borough, or city sporting federations and associations of sporting organisations and federations,

5 training, the organisation and holding of systems of domestic and international competitions, and general and special health care for sportsmen,

6 sporting and recreational activities of the citizens, and other sporting activities that serve to improve and maintain health and the attainment of psychic and physical competencies among the people at large,

7 physical culture and sporting activities for disabled persons and other persons who are not in perfect health,

8 maintaining and constructing facilities that are of importance for the county, the City of Zagreb, the city or borough,

9 expert work in sport, and educational and information work in sport, which is a basis for a serves the relations of the public needs as defined by Paragraph 1 Points 1 to 7 of this Article.

(2). The programme of public needs as defined by Paragraph 1 of this Article is passed by the representative body of the country, City of Zagreb, city or borough together with its budget, at the recommendation of the local authorities.

(3). Funds to meet the public needs as defined by Paragraph 1 of this Article are set aside from the budgets of the county, the city of Zagreb, the city or borough (and transferred) to the account of the community of sporting associations and alliances in the county, City of Zagreb or city, or the sporting associations in a borough.

(4). The communities of sporting associations and federations in a county, the city of Zagreb and a city, or the sporting associations in a borough, will submit an annual report about the implementation of the programme of the public needs to the representative body of the county, City of Zagreb, city of borough in the period prescribed for the annual report about the implementation of the budget of a county, the City of Zagreb, a city or a borough.

Article 40

The Minister of Finance will prescribe the untaxed parts of remuneration and other dues as decried by Article 13 of this Law.

Article 41

(1). With physical and legal persons who are taxpayers of income tax or profits tax, all outgoings of assets with a monetary value (money, things, services) made without charge to associations, establishments and companies that carry out a sporting activity fall among those expenses that reduce the tax base.

(2). Expenses as defined by Paragraph 1 of this Article are accepted in the case of income tax payers up to 50,000 kuna annually, and in the case of profits tax payers up to 500,000 kuna annually. At the recommendation of the Minister of Education and Sport, the Minister of Finance may approve sponsoring even beyond these amounts, only for the sponsoring of national teams.

SPORTING COMPETITIONS AND SPORTING EVENTS

Article 42

(1). The principles and basic conditions for the system of sporting conditions in the Republic of Croatia are determined by the Croatian Olympic Committee.

(2). The system, conditions and organisation of sporting competition in an individual branch of sport are determined by the national sporting federation in accord with the provisions of this Law, with the principles and basic conditions as defined by Paragraph 1 of this Article, and with the rules of sport and the norms of international sporting associations.

(3). A decision about the organisation of sporting competitions for the area of one or more boroughs, or the City of Zagreb, in accord with the regulations as defined by Paragraph 2 of this Article, is made, and the sporting competitions are organised, by the sporting federations founded for this region, and for the region of the Republic as a whole by the national sporting federation.

Article 43

(1). A competition in and individual sport is organised and run by a national sporting federation.

(2). A national sporting federation can confide the running of a competition to an individual association as defined by Article 29 of this Law or for some individual competition to county sporting federations.

(3). A national sporting federation can set up a special system of sporting competition in collective sports in which only professional clubs, companies and establishments that satisfy specially defined conditions with respect to size (capacity) of sporting facilities and financial status (minimum capital) take part.

(4). An association of professional clubs, companies and establishments confirm a proposal of a system of competition in which only professional clubs and send it to the national sporting federation to be adopted, with the opinion of professional sportsmen being first obtained.

(5). In the rules that govern the system of sporting competitions it must be prescribed that a new system of sporting competition and a change of the existing system of sporting competition can not begin to be implemented before the passage of at least one year from the day on which the decision about the new system of the change in the system of sporting competition is made.

Article 44

In the cup competition system, exceptionally to the provisions of Article 8 Paragraph 3 of this Law, at all levels of competition in addition to sporting clubs that carry out their sporting activity on an amateur basis, sporting clubs that carry out their sporting activity professionally can take part as well, as can establishments and companies that carry out competitive sporting activities.

Article 45

(1). Foreign citizens can appear for sporting clubs and establishments and companies that carry out a sporting activity in international sporting competitions according to the regulations of international sporting associations and the Charter of the International Olympic Committee.

(2). Foreign citizens can appear (play) for sporting clubs and establishments and companies that carry out competitive sporting activity in sporting competitions at the national level as well, if so determined by the rules of the national sporting federation.

Article 46

(1). A sporting event (a festival, review, meeting, games and so on) is an organised physical activity or game, which is not carried off as an official competition according to set rules, but is one with the aim of popularising sport on in connection with marking some event.

(2). Sporting events are organised in accord with the rules that are set by the national sporting federation. The provisions of Articles 42 to 45 of this Law are applied in an appropriate way to the organisation of sporting events.

Article 47

(1). Sporting clubs, establishments and companies and physical persons who carry out a sporting activity can take part in international sporting competitions and in international sporting events only with the prior agreement of the national sporting association.

(2). A proposal for the holding of the Olympic Games, world and European championships, the Mediterranean Games and the World Student Games is made by the Croatian Olympic Committee.

(3). For the holding of the Olympic Games, world and regional sporting competitions and international sporting events on the territory of the Republic of Croatia the consent of the Government of Croatia is needed.

(4). International sporting competitions and international sporting events are organised in accord with this Law and in accord with the conditions prescribed by international sporting associations.

Article 48

(1). Organisers of a sporting competition and a sporting event are bound to organise their holding in line with regulations about the peaceful gathering of citizens.

(2). The organisers of sporting competition and a sporting event are bound to organise the provision of first aid during the duration of the sporting competition or event. The duration of a sporting competition or event is held to include at least 30 minutes before the beginning and after the close of the competition or the event.

Article 49

(1). No person can take part in a sporting competition or sporting event without having pronounced, at least six months before the sporting competition or event, generally medically fit and where its is prescribed medically fit in come special way.

(2). General and special medical fitness will be determined by a physician with an appropriate training in sports medicine, as determined by the presidency of the sporting federation of a county, borough or city. Exceptionally, if there is no physician with this precise profile, special medical fitness can be determined by a specialist for medicine of work.

(3). The costs of determining the medical fitness of sportsmen will be borne by the appropriate sporting association or by the sportsman who carries out sporting activity independently.

Article 50

(1). A sportsman and other participant in the carrying out of a sporting activity can not undertake an obligation to engage in training, a sporting competition or a sporting event if the competent physician determines some medical unfitness or the danger that his medical state will deteriorate.

(2). Sportsmen or other participants in sporting activities may not be given nor may they take impermissible stimulants, nor apply procedures that are in opposition with the rules of the Croatian Olympic Committee and the International Olympic Committee. Sportsmen and other participants in sporting activities must allow drug tests to be carried out (on them).

SPORTING FACILITIES

Article 51

(1). In this sense understood by this Law, sporting facilities are indoor and outdoor facilities and natural arranged areas that meet the requirements for the carrying out of some sporting activity. Sporting facilities are not facilities that are used for other purposes, and occasionally used also for the carrying out of sporting activities. Whether or not some facility is to be considered a sporting facility will, in case of doubt, be decided by the Minister of Education and Sport.

(2). For the planned construction and reconstruction of facilities and the promotion of sport in a given area, a system of sporting facilities will be elaborated during the procedure for land use planning.

(3).The Ministry of Education and Sport, with the prior obtained opinion of the Ministry of Construction, Planning and Housing, prescribes the planning conditions and standards for the elaboration of a system of sporting facilities.

(4).When residential estates and settlements are being planned, the construction of sporting facilities serving, children youth and citizens for sporting competition and sporting recreation must be planned.

Article 52

For the planned construction, reconstruction and maintenance of sporting facilities, as part of the documentation in the land use planning of the counties, the City of Zagreb, the cities or boroughs, in the decision about the passing of the land use plan, the system of sporting facilities and provisions of its elaboration and implementation must be laid down.

Article 53

(1).Sporting facilities are planned, built, equipped and maintained, as well as according to the conditions prescribed by the Minister of Construction, Planning and Housing, according t conditions prescribed by the Minister of Education and Sport.

Article 54

In the matter of organised skiing grounds an bathing areas the conditions that relate to the safety of the visitor and user, that are not governed by any other regulations, are prescribed by the regulations made by the Minister of Education and Sport.

Article 55

(1).Sporting facilities that are of particular interest to the Republic of Croatia are the Bjelolasica Croatian Olympic Centre and the Automodrom Grobnik.

(2).The interest as defined in Paragraph 1 of this Article is realised particularly through the authority of the Government of the Republic of Croatia together with other legal persons who own the real estate that constitutes these sporting facilities to set up companies for the carrying out of sporting activities, with the proviso that the Republic of Croatia must have a majority shareholding on the basis of real estate or money invested.

Article 56

(1).Units of local (self) government that own sporting facilities on the basis of Article 88 of the Law about amendments to the Law about Sport (Narodne novine, no 77/95) decide independently about the management, use and maintenance of these sporting facilities.

(2).For the use of sporting facilities the utility services fee is paid in the amount of the fee determined for households.

THE NATIONAL FRANJO BUČAR AWARD FOR SPORT

Article 57

(1).The National Franjo Bučar award for sport (in subsequent text: the national award) is the highest recognition the Republic of Croatia gives to sportsmen and sportswomen and other physical persons who take part in the carrying out of sporting activities, and to legal and physical persons who carryout a sporting activity. The national award can be given to other legal and physical persons for merit in the development of sport in the Republic of Croatia.

(2). The national award consists of a medal with the likeness of Franjo Bučar, a special certificate and a money prize.

Article 58

(1). The national award is given as a prize for life work or as an annual award.

(2). The national award for life work is given to individuals for their long-term contribution to the promotion of sport.

(3). An annual award is given to physical and legal persons for sporting achievements attained during the year or for some other particularly important annual contribution to the promotion of sport.

(4). Annually, no more than two prizes for life work can be given.

(5). The national award is given on the occasion of the anniversary of the birth of Franjo Bučar, in November for the current year.

Article 59

(1). A decision to give a national award it made by the National Franjo Bučar Award for Sport Committee (the National Award Committee).

(2). The president and the eight members of the National Award Committee are appointed, at the recommendation of the Minister of Education and Sport, by the Parliament of the Republic of Croatia, from among distinguished sporting people and other sporting and public figures, for a period of four years.

Article 60

The Minister of Education and Sport will make Regulations about the National Franjo Bučar Award for Sport which will in more detail determined the conditions under which the national awards will be given, the way the Committee works and other questions important for the giving of the national awards.

Article 61

The giving of the national Franjo Bučar award is of national interest and funds necessary for the giving of the award are provided from the national budget of the Republic of Croatia.

PUPILS' AND STUDENTS' SPORTING CLUBS AND THE SPORTING ACTIVITY OF DISABLED PESRONS

Article 62

(1). In elementary and secondary schools pupils' sporting clubs are founded so that pupils can carry out extra-curricular sporting activities.

(2). Pupils' sporting clubs are founded by the school committees.

(3). Pupils' sporting clubs are not legal persons and work as part of the elementary or secondary schools. Pupils' sporting clubs carry out their activities in line with this Law and the regulations that govern elementary or secondary education.

(4). The activity of pupils' sporting clubs is financed from the national, city and borough budget.

(5). In order to carry out sporting competitions, pupils' sporting clubs associate in county federations and federations for the area of the City of Zagreb, which associate in national school sporting club associations.

Article 63

In order to determine the system of competition of pupils' sporting clubs, the Croatian School Sport Federation is organised at the Ministry of Education and Sport, with a position of a Board (Institute) within the Ministry and run by the assistant minister of education and sport responsible for sport.

Article 64

(1). Students of tertiary level educational institutions can associate in students' sporting clubs, to the founding, organisation, legal position, registration and cessation of which the provisions of the Law about associations are applied.
(2). Students' sporting clubs can associate into a community of students' sporting clubs which can set up a special system of sporting competitions for students' sporting clubs and determine the conditions and the organisation of these sporting competitions.
(3). The governing council of the tertiary level educational institutions will determine under what conditions students' sporting clubs can use the premises of the institutions for their activities.

Article 65

(1). In associations of disabled persons, centres for upbringing and education, centres for the rehabilitation and resocialisation of persons with a disability, sporting clubs are founded for the carrying out of specific sporting recreational activities.
(2). The activity of clubs as defined by Paragraph 1 of this Article are financed from the national budget and the budget of units of local government.

THE SUPERVISION AND OTHER AUTHORITIES OF THE MINISTRY OF EDUCATION AND SPORT

Article 66

(1). Inspectorial supervision of legal and physical persons who carry out a sporting activity is undertaken by the Ministry of Education and Sport.
(2). Administrative supervision of legal and physical persons who in the carrying out of a sporting activity issue certificates as defined by Article 9 of this Law is undertaken by the Ministry of Education and Sport.

Article 67

Supervision of the legality of the work of sporting associations, sporting federations and communities of sporting associations and federations and other legal persons who carry out a sporting activity is undertaken by the administrative body responsible for the business of the sport of a county or the City of Zagreb in the region of which the headquarters of the sporting associations, sporting federations and communities of sporting associations and federations and other legal persons who carry out a sporting activity lie.

Article 68

(1). The Ministry of Education and Sport establishes and keeps records of:
  - i. Legal and physical persons who carry out a sporting activity,
  - ii. Pupils' sporting clubs
  - iii. Publishing about Sport

(2). The Ministry of Science and Technology establishes and keeps records of:
  - i. Student sporting clubs

(3). The Croatian Olympic Committee keeps records of:
  - i. Sporting associations, communities of sporting associations and federations and sporting federations,
  - ii. Sporting facilities,
  - iii. Sporting competitions and sporting events,
  - iv. International sporting competitions and international sporting events,
  - v. Scientific research work and professional work in sport,
  - vi. Publishing in Sport,
  - vii. Financial operations in sport.

(4). National sporting federations and other associations keep records about:
  - i. Sportsmen and other people who participate in sport,
  - ii. Competitions and sporting events,
  - iii. Sporting facilities,
  - iv. Financial operations in sport.

(5). The Minister of Education and Sport prescribes the form and content of the records as defined by this Article.

PENAL PROVISIONS

Article 69

(1). Legal and physical persons will be punished with a fine of from 30,000 to 200,000 kuna for a misdemeanour:

1. If they start carrying out a sporting activity before the Ministry of Education and Sport determines that they have the prescribed sporting facilities and sporting equipment and satisfy other prescribed conditions (Article 7 paragraph 5),
2. If they issue a certificate about an attained degree of training in the understanding of certain physical activities and games, against the law (Article 9, Paragraph 1),
3. If they do not organise sporting events in accord with the rules that are determined by the national sporting federations (Article 46, Paragraph 2)
4. If they do not organise sporting competitions and sporting events in accord with the regulations about the peaceful gathering of citizens (Article 48, Paragraph 1)
5. If they do not ensure the provision of first aid during a sporting competition or sporting event (Article 48, Paragraph 2)
6. If they allow people to take part in a sporting competition or sporting event who at least six months before the sporting competition or sporting event have not had their general medical fitness checked and, when prescribed their special medical fitness (Article 49),
7. If they oblige a sportsman or some other participant to take part in some sporting activity in training, a sporting competition or a sporting event while they have some sickness or injury that might affect their health (Article 50, Paragraph 1),
8. If they give sportsmen and other participant in sporting activities impermissible stimulants (Article 50, Paragraph 2)

(2) For a misdemeanour (or offence, tr.) as defined by Paragraph 2 of this Article, the responsible person in a legal person will be fined between 3,000 and 20,000 kuna.

Article 70

(1) A sporting club will be fined between 20,000 and 150,000 kuna for a misdemeanour:

1. if they give their members or outside persons remuneration, prizes and support, free use of facilities and equipment otherwise than as provided for in the internal regulations of the sporting club in accord with the law (Article 13, Paragraph 4),
2. for allowing professional participation in sporting competitions except in sporting competitions at the national level or in international competitions, and in a case as defined by Article 8 Paragraph 4 of this Law (Article 8, Paragraph 3).

(2) For a misdemeanour as defined by Paragraph 1 of this Article the responsible person in a legal person will be fined between 2,000 and 10,000 kuna.

Article 71

A physical person will be punished with a fine of from 1,000 to 5,000 kuna if he starts to carry out a sporting activity before being entered in the register of sporting activities or if he goes on carrying out a sporting activity after being deleted from the register of sporting activities (Article 21, Article 22, Paragraphs 2 and 3)

Article 72

(1) A sporting club, establishment or company will be fined between 5,000 and 15,000 kuna for a misdemeanour :

1. if they allow a foreign citizen to take part in international sporting competitions against the regulations of international sporting associations and the Charter of the International Olympic Committee (Article 45, Paragraph 1),
2. if they allow a foreign citizen to take part in sporting competitions at a national level, unless this is determined by a regulation of a national sporting federation (Article 45 Paragraph 2).

(2) A responsible person in a legal person will be fined between 500 and 1,000 kuna for a misdemeanour as defined by Paragraph 1 of this Article.

Article 73

(1) A physical person who takes part in a sporting competition or a sporting event and has not had at least six months before the sporting competition or sporting event without having been pronounced generally medically fit and, when it is prescribed, specially medically fit, will be fined between 1,000 and 5,000 kuna for a misdemeanour.

(2) If a sportsman or other participant in sporting activities takes an impermissible stimulant or does not allow a drug test to be carried out on him he will be penalised:
  a) the first time with a fine of between 5,000 and 10,000 kuna
  b) the second and each subsequent time with disqualification and a ban on engaging in sporting activities for between 1 and 3 years.

TRANSITIONAL AND CONCLUDING PROVISIONS

(1) The Minister of Education and Sport is bound to make the regulations as defined by Article 7 Paragraph 2, Article 9 Paragraph 2, Article 20 Paragraph 1, Article 51 Paragraph 3, Article 53 Paragraph 1 and Article 68 Paragraph 5 of this Law within 60 days of this Law coming into force.

(2) The Minister of Education and Sport and the competent ministers are bond to make the regulations as defined by Article 7 Paragraph 3 and Article 20 Paragraph 2 of this Law within 60 days of this Law coming into force.

(3) The Minister of Finance will make the regulation defined by Article 40 of this Law within 30 days of this Law coming into force.

Article 75

(1) The Croatian Olympic Committee will make the rules as defined by Article 5 Paragraph 1, Article 32 Paragraph 3, Article 34 Paragraph 3 and Article 42 Paragraph 1 of this Law within 60 days of this Law coming into force.

(2) The competent national sporting federations are bound to make the general regulations as defined by Article 7 Paragraph 1 and Article 42 Paragraph 1 of this Law within 90 days of this Article coming into force.

(3) Sporting clubs are bound to make the general regulations as defined by Article 13 Paragraph 4 and Article 14 Paragraph 5 of this Law within 90 days of this Act coming into force.

Article 76

National sporting federations are bound, by making the general regulations as defined by Article 42 Paragraph 2 of this Law, to bring the system, conditions and organisation of sporting competition into line with the provisions of this Law within 90 days of this Law coming into force.

Article 77

Sporting Clubs and other sporting associations are bound to bring their charters (Articles, tr.) into line with the provisions of this Law in the period in which they are bound to adjust their charters with the provisions of the law that governs their associations.

Article 78

Until the passing of the bylaws as defined by Article 74 and the general regulations as defined by Articles 75 and 76 of this Law the existing regulations and bylaws by which questions that should be governed by the bylaws as defined by Article 74 and the general regulations as defined by Articles 75 and 76 of this Law are governed will be applied.

Article 79

On the day on which this Law comes into force the Law about Sport (Narodne novine bo 60/92, no 25/93, no11/94, and no. 77/95) will cease to be valid.

Article 80

This law comes into force on the eighth day after being published in Narodne novine.

CYPRUS

SPORT AND LEGISLATION IN CYPRUS

A paper outlining the institutional framework for Sport in Cyprus, compiled by Savvas Matsas, Senior Counsel of the Republic of Cyprus, 17/02/97.

1. The purpose of this paper is to provide an outline of the general conception of sport, the Legislation, the Governmental Structures (at national, regional and local level), the Consultations Bodies (at national, regional and local level) and the Sport at School in the Republic of Cyprus.

2. General conception of sport

a) General sports planning is carried out by the Cyprus Sport Organisation which is the highest sports authority in the Republic of Cyprus regarding competitive sport and mass sport (Sport for All). The Cyprus Sport Organisation is a legal person according to the provision of Law 41/1969 as amended and is governed by and Administrative Council, consisting of 9 members appointed by the Council of Ministers. This organisation supervises and counsels sports federations and sport clubs, promotes and spreads mass sport, is responsible for the athletic recognition of sport associations, federations and confederations, provides economic and technical assistance to communities, sport federations, sport clubs, sport teams and delegations, organises and operates sport centres for use by the public, constructs stadiums, funds the participation of clubs and federations in International sport competitions, takes measures against the use of violence and the use of prohibited substances, etc…

The implementation of the general principles on competitive sport is carried out by the federations which are autonomous bodies in the meaning that they are working in accordance with the principles defined by their respective International Federations and the International Olympic Committee.

b) The Cyprus Olympic Committee which is responsible for the development of the Olympic Movement in Cyprus and its principle function is to organise together with the respective National Federations, the preparation and selection of the athletes, thus ensuring that Cyprus is represented in some major competitions which are under the auspices of the International Olympic Committee.

3. Governmental structures

3.1 At national level

The highest sport authority at national level is the Cyprus Sport Organisation. It is a para-governmental legal person. Its financial resources are mainly government subsidies which amount to about six million Cyprus pounds per year. Other resources are rights from sport competition or events, from Lotto, Proto, Pro-po, fixed odds Pools and racing bets. The annual income from these resources are 5-6 million Cyprus Pounds per year. These funds are distributed by the Organisation to the 36 existing federations and their clubs for the implementation of their athletic programmes. According to the provisions of the relevant Law (Law 41/1969 as amended) under the Cyprus Sport Organisation, there are the federations and their dependent clubs.

Alongside the Cyprus Sport Organisation is the Cyprus Olympic Committee, which is a non-governmental body but also funded by the Cyprus Sport Organisation for the implementation of its programmes and functions. Furthermore, some other Unions and Committees are dependent to the Cyprus Sport Organisation i.e. the Referees Union, the Trainers Union, the Sports Research Centre etc. The relevant law (law 41/69 provides also for the establishment of a Highest Judicial Sport Committee which consists of 5 members appointed for a two year term by the Cyprus Sport Organisation and having both original jurisdiction to try sport judicial cases and athletic offences when the memorandum of Association of the relevant sport federation does not provide and appellate jurisdiction to try all appeals against decisions of the respective judicial committees.

3.2 At regional level

Numerous district organisations appointed by the Administrative Council are also dependent to the Cyprus Sport Organisation i.e. the Committees for mass sport (Sport for All) the management committees for sports facilities, stadiums etc...

4. Non-governmental structures

4.1 At national level

The highest non-governmental bodies are the federations for the various sports. The federations function according to their memorandum of Association and the respective international federations. There are 36 active sport federations, responsible for the administration and regulation of 38 individual sports, officially recognised by the respective European and International federations. These federations consist of about 450 clubs for all sports, with an active force at the competitive level of about 35 000 men and women, representing 20% of the population aged 10-30.

The Cyprus Olympic Committee (C.O.C.) which is responsible for the development of the Olympic Movement in Cyprus, is also a non-governmental association. Its members are mainly representatives of the 36 or associated federations or bodies and are also recognised by the International Olympic Committee. The Cyprus Olympic Committee functions according to its memorandum of association and the memorandum of Associations of the International Olympic Committee. The Commonwealth Games Committee, the University Students' Sports Organisation and the Association of Military Sports are also non-governmental bodies.

4.2 At regional level

There are no regional sports unions in Cyprus. The local clubs or bodies are co-operating, as above described, with the respective federations cover satisfactorily sport activities in Cyprus.

4.3 At local level

The whole system is based on local clubs and other sport bodies, which are the instruments of development of sport. These clubs are legal persons functioning according to the Societies and Institutions Law (Law 57/1972) and their Memorandum of Association. It is remarkable that the Administrative Councils of the highest non-governmental bodies, namely, the federations, are elected by representatives of the local clubs, thus ensuring among others the active participation of local clubs, in the administration of the federations.

5. Consultations bodies

5.1 At national level

There are various consultation bodies at this level i.e. :

- The Supreme Health Council for athletes which is responsible for the preventive examination of all the competitors for all the sports.
- The National Anti-doping Committee which is responsible for the implementation of the Anti-doping Convention of the Council of Europe and also the National Committee for the prevention of Violence and for Fair Play.
- The Academy of Sport responsible for the training of coaches, referees, judges, permanent administrators, etc…

Their members are appointed by the Cyprus Sport Organisation and function between the Cyprus Sport Organisation and the national federations.

5.2 At regional level

Consultation bodies having the same status as those at national level, are found only in mass sport (Sport for All) programmes.

5.3 At local level

Consultation bodies at local level are found in the municipalities and communities. These bodies are simply making suggestions.

6. Sport at school

The body responsible for the development of sport at school is the Ministry of Education and Culture, both at the elementary education (Cap 166 and Law 21/1959 as amended) and secondary education (Cap 169 and Law 44/1969 as amended). Regarding private education there are special statutory provisions (Law 16/1962 and 5/1971).

Various sports are being developed at school i.e. track and field sports, basketball, volleyball, handball, gymnastics, swimming, football, tennis etc.. The best team of each school participates in annual regional and national championships organised by the Ministry of Education and Culture. The champion teams participates in various international and European student's competitions.

7. Practical information

National body responsible for sport

Cyprus Sport Organisation
Makario Athletic Centre Avenue
Engomi - P.O. Box 4804
2499 Nicosia
Tel : 02-358888
Telegrams: ATHLITISMOS
Telex: 4749 CSO CYPRUS
Fax: 02 358222

CZECH REPUBLIC

SPORT AND LEGISLATION IN THE CZECH REPUBLIC

A paper outlining the institutional framework for sport in the Czech Republic and the relationship between sport and the law

Compiled by the Department of Sports
of the Ministry of Education,
Youth and Sports of the Czech Republic
- October 1997 –

Content of the report:
I. Introduction
II. Structures for Sport in the Czech Republic
III. The Political Framework
IV. The Legislative Framework
V. Financing
VI. Current Legal Issues

I. Introduction

I.1. The aim of this study is to provide an insight into the organisation of the sports and physical education movement in the Czech Republic with special respect to the relation between sport and law.

I.2. Since 1989 major political, economical and social changes, which also included changes in the field of sports, have been coming about. New conditions arose in 1993 with the foundation of the separate state after the split of the Czechoslovak Federation. The information provided depicts the current situation in a dynamic development: the sphere of sport will be henceforth the part of transition process in the fields of legislation, public administration, financing of programmes, from which the public benefit, etc.

I.3. The specific historical development of "the Countries of the Czech Crown" brought some special terminology concerning sport. The expression "sport", normally used in Western European countries, is complemented in this study and in various laws and orders by some other expressions, for example: sport and physical education, physical education, sport and tourism, physical culture, physical education movement etc.

II. Structures for Sport in the Czech Republic

II.1. Voluntary Sector

II.1.1. Civil organisations (voluntary social organisations) are basic phenomena in sport in the Czech Republic (CR). They act on the basis of the Association of Citizens Act no. 83/990 Coll. At present there are about 200 sports associations at national level. There is a great variety among them as to the number of members, specialisation in respective kinds of sports, their internal organisational structure, traditions, membership in international federations and so forth.

II.1.2. Civic organisations are legal entities and they can affiliate to umbrella organisations, which is enabled by Civil Law and by the Association of Citizens Act.

II.1.3. Currently the Czech Sports Association is the biggest umbrella organisation - ÈSTV to which 77 civic organisations are affiliated. Other umbrella organisations are the Association of Technical Sports and Activities of the Czech Republic (16 civil organisations), the Autoclub of CR (14 civil org.), the Czech Motorcycle Federation (7 civil org.), the Light Aircraft Association (3 civil org.), the Czech Association of Sport for All (3 civil org.).

II.1.4. The Czech Olympic Committee traditionally has a special position amongst the civil organisations. Its object is to propagate the ideas of the Olympic movement and to ensure the participation of Czech sports in the Olympic games.

II.1.5. The Anti-Doping Committee of CR is a civil organisation, which does not organise sports activities of citizens but fights doping in sport in co-operation with the state administration and bodies and other sports federations. It has a substitutional function in fulfilling the aims of the Anti Doping Convention of the Council of Europe.

II.1.6. The most significant civil organisations have established a contracting body – The All Sports Collegium of CR. Its aim is to assert the interests of sport in society, mainly in the legislative process and the preparation of new legal regulations.

II.1.7. Voluntary membership and the voluntary adoption of tasks, such as participation in the management and implementation of activities of the association are characteristic features of civil organisations. Large civil organisations and clubs also employ professional workers. Traditional civil organisations are the biggest owners of sports facilities and other properties and have paid workers in these facilities.

II.2. State and public administration in the creation of conditions for sport

II. 2.1. In the Chamber of Deputies of the Czech Parliament a special committee for sport working within the framework of the Committee for science, education, culture, youth and sport has been established. The committee deals with the matters of legislation and sport.

II.2.2. The Minister of education, youth and sports is the person responsible for sport in the Government of CR. The Government decides how other departments share in implementing tasks concerning sport.

II.2.3. According to the Ministries Jurisdiction Act, the Ministry of Education, Youth and Sports is the central body of the state administration for physical education, sports, tourism and sports representation of the state. Physical education at schools is also within its authority.

II.2.3.1. Co-ordination between the workings of the state administration and civil organisations is ensured by advisory body to the Minister - Council for Physical Education and Sport. The members of this Council are representatives of the biggest civil organisations and other experts.

II.2.3.2. Co-ordination in ensuring sports representation are solved in the Council of Sports Representation, which is also an advisory body to the Minister.

II.2.4. At the district level of public administration, matters of physical education and sports are dealt with by the workers of District Offices. The number of these workers varies from district to district.

II.2.5. At municipal level, the number of workers involved in sport depends on the decision of the elected bodies. In big cities, sport offices have been established.

II.3. Commercial sector

II.3.1. In accordance with Trade Law and Commercial Law, various commercial activities, aimed at health, fitness and various sports hobbies, have been developing rapidly recently.

II.3.2. Civil organisations have also founded business companies managing sports facilities and also some big sports clubs (for example, soccer or ice hockey) work on a commercial basis.

III. The Political Framework

III.1. With the end of totalitarian regime in late 1989 new conditions for the way of renewal of political and civil freedoms were created and thus the foundations of political and social pluralities were laid, entirely on the basis of law. Organised sport, i.e. most of its institutions and members, have quite quickly oriented in the above mentioned legal and economical conditions.

III.2. All the branches of the state power (legislative, executive, judicial) accept the significance of sport for individuals and for society. Parliament, Government and the respective ministries are gradually and deliberately creating the conditions for the development of sport.

III. 3. The political framework for building the state relies on the free decision of citizens; the function of the state is concentrated on spheres where its role is irreplaceable. Thus the state enables to develop the activities of sports civil organisations .

IV. The Legislative Framework

IV.1. At the beginning of the second half of the 19th century, mainly after the so-called Austro - Hungarian Equalisation, the political ambitions of the Czech public to achieve autonomous status failed repeatedly.

As the political as well as the national organising of the Czech population within borders of the "Czech Crown" (Bohemia, Moravia and a part of Silesia) was prevented by a number of official imperial obstacles, part of the political elite of the Czech nation started to found seemingly politically neutral voluntary free time organisations, sports ones among them, in accordance with the then valid Club Act no. 134/1867. Thus Czech SOKOL Organisation was founded. It was originally a physical educational and sports unified organisation, which gradually changed into a political Czech institution. Its existence and authority significantly contributed to the foundation of Czechoslovakia in 1918.

At the end of 19th century some sport disciplines and games such as like track and field, cycling, rowing, rugby or soccer were imported from England.

So new sports clubs and their federations were gradually established already working physical educational organisations. Their regular competitions became occasions for both active and passive folk entertainment.

Also the rebirth of the Olympic movement, as a totally new private occasion for international co-operation, outside the sphere of influence and power of the state, was accepted by the Czech society of those days as a means of representation of Czech interests on the international scene. It was an extraordinary situation when the Czech sports movement gained recognition for participation in the Olympic Games before the achievement of state sovereignty.

In the time of the monarchy, voluntary sports organisations, the federations and their members created on a private basis not only the rules of sport disciplines and competitions, the rules of organising the competitions including participation and the system of qualifications, but also their internal regulation without any meaningful assistance from the state or community law.

IV.2. In the Czechoslovak Republic between the world wars physical educational and sports clubs associated mainly in the Czech Sokol Organisation became the place for national and political concord and an expression of the member's private support of the existence of their own state.

The State, i.e. the public budget, did not in principle directly support private sports activities as direct financial and personal assistance was provided only for school physical education and partly for university sport. Indirectly they were however supported by tax and administrative tolerances and further they could be supported by local (community) budgets.

Organised sport and its regional and national competitions, including the top ones, were mostly amateur in those days as Article 26 of Olympic Charter excluded from the participation in Olympic Games those athletes for whom sport was the source of living.

Besides horse races also boxing, wrestling or tennis and soccer were professional, although sometimes only partly or secretly, that means the kinds of sport which had a chance to attract the interest of a paying public.

This interest was soon employed to pursue lottery offices which profited by the offer of privately organised sport.

Sports clubs and federations essentially had to act according to the same laws and normative provisions like all other subjects, which present their activities in public. The State did not accept any special normative provisions, and had no ambitions to regulate private sport or its institutions by public law and budget.

IV.3. During the period of communist dictatorship (1948 - 1989) privately organised physical education and sport was destroyed.

As with all other private activities, Physical Education (P.E.) and sport were influenced by the loss of common political and civil freedoms, by the oppression of human rights and the winding up of private property and private profit.

The natural plurality of sports disciplines and consequently the existence of sports clubs was set by a special law establishing a unique and united sports organisation which pursued, indirectly, the role of political monopoly in the field of P.E. and sport.

The Czechoslovak Sports Association was liable to political and personnel orders from the Communist Party of Czechoslovakia, pursuing its so-called leading role. This organisation achieved de facto and legally the position of a public institution, and its bodies, not state ones, also issued the permissions to establish its local organisations as legal subjects. Totalitarian state tolerated more or less a certain autonomy of organised sport and P.E., at least as far as to sports rules and the organisation of sports competitions and technical supervising of these competitions, including solution of possible „technical controversies“, were concerned without the need to issue any special generally valid legal provisions.

Instructions, regulations or interventions from the political bodies, however, always had priority over the independence of sports bodies and the law itself.

The more the presentations and attractiveness of political, social and economical results of totality failed at national and international level, the more the political bodies were apt to support quite liberally working and economical needs of organised sport, not only from the state budget but also by providing various tax reduction and permitting so called economical activities.

The activities in sports organisations, both for the purposes of voluntary work and the purposes of realisation of sport performance itself, were promoted by a Labour Law in pursuing „public work“, for which the person had to be released from his or her employment with full salary, the basis of a state professionalism in sports were laid.

IV.4. Legislature at the present time is in the process of transition, in a process of convergence with the legal systems of democratic countries and of the Council of Europe. Accent on legislative priorities is one of the reasons why the adoption of special law on sport is not topical.

V. Financing

V.1. Financial resources distributed from the centre

V.1.1. Financial resources of the state budget through budget chapters of respective ministries

V.1.1.1. Grants for civil organisations in P.E. and sports are purposefully distributed by Ministry of Education, Youth and Sports (MŠMT) on the grounds of grant method for the activities of the organisations and for sport representation.

V.1.1.2. Financial resources in the budgets of MŠMT, Ministry of Defence and Ministry of Interior are for the Department Sport Centres training top athletes.

V.1.1.3. Financial resources distributed by Ministry of Interior to District Offices for sport in communities .

V.1.1.4. The overall amount of these resources depends on the income of the state budget, on the prosperity of the economy of CR and is about 2 - 3 billion Czech Crowns.

V.1.2. The profit from betting and lotteries is managed by the joint-stock company Sazka. At least 90% of its profit is distributed through MSMT to civil organisations for public beneficial purposes in P.E. and sports. The amount of this resource depends on the economical results of Sazka and is approximately 1 billion Crowns per year.

V.2. Financing at regional and local level.

V.2.1. The resources of civil organisations and sports clubs are created by the contributions from their individual members, from sponsors and foundations. There are not too high in total. Clubs can also receive finance for sport from the budgets of communities. These resources differ in various towns and villages according to their conditions.

V.2.2. The reasonable requirements for financial coverage of sports exceed the real limits of the budgets at all levels of state administration. Civil organisations (citizens unions) strive to increase their own resources and to utilise effectively the money from the state budget and from the profit of Sazka lottery.

VI. Current Legal Issues

VI.1. The Constitution of the Czech Republic no.1/1993 Coll

Article 2 among others guarantees that:

-(only) people are the source of all state power, which is implemented through legislative, administrative and judicial power,

-state power (legislative, administrative and judicial) serves all citizens and can be applied only in cases and within the framework given by law

- every citizen can do what is not forbidden by law and nobody may be forced to do what the law does not impose.

Article 5 further sets down that:

- the political system is based on free and voluntary establishment and free competition of political parties respecting basic democratic principles and refusing violence as a means of asserting their interests.

State law is limited towards the private sector, sports included, by its consent, by its direction and by its prohibition which must be clearly defined for the purpose of law enforcement.

This legal principle makes a basic tool of renovation and development of the Czech legal system and its harmonisation with the standards of normative law of EU countries.

VI.2. Constitutional Charter of Rights and Freedom no. 2/1993 Coll

Article 11 - guarantees the protection of property rights of all owners;
Article 20 - guarantees right of free association with others in clubs and associations;
Article 26 - guarantees right of free choice of occupation, enterprise and source of living;
These three articles are the constitutional guarantees of freedom of privately organised sport and at the same time the protection of property rights and its participants and institutions including the right of each individual freely decide about the possibility of participation in sports, whether as a hobby or as a source of living etc.

VI.3. Constitutional Law on reception of (normative) law no 4/1993 Coll.

In connection with the split and extinction of the late Czech and Slovak Federal Republic, constitutional rules on continuity and taking over its normative legal system to the legal system of the newly established Czech Republic were set down.

This brings the problem which previous legal regulations remain part of the new Czech legal system. In the times of totalitarianism various regulations, orders, instructions were issued for the sphere of P.E. and sport - due to in that time valid law (at present cancelled by other laws of the Czech Republic) - however often without their publishing in Collections.

VI.4. Establishment of Central State Administrative Bodies Act no. 2/1969 Coll.

Since the revolution 1989, this Act has been amended several times and the Ministry of Education, Youth and Sports was also established according to it as a central body of state administration - in accordance with § 7:

"...for pre-school institutions, school institutions, basic schools, secondary schools and universities, for scientific policy, for research and development, including international co-operation in this sphere, for scientific and academic degrees, for state care for children, youth, physical education, sport, tourism and sports representation".

VI.5. Announcement on the Agreement on the Association to EU no. 7/1995 of Coll.

By this announcement an international agreement which binds both Czech Republic and EU bodies and its member countries to implement agreed measures aiming at the procedure of adoption of Czech Republic to EU was published.

One of the essential measures is the agreed harmonisation of the sphere of law which is especially for private sport very significant fact, as there is a new space for legislative and economical engagement of the state in protecting and supporting sport and its participants, within the recommendations of Council of Europe such as the European Sports Charter, the European Convention on Spectator Violence...etc.

VI.6. Order no. 84/1988 Coll.

By this Order an international convention against apartheid in sport is presented, which was dealt with in N.Y.C. 1985 and which is now legally binding also for the Czech Republic as well as for its public institutions and for athletes, coaches, judges etc.

In practice and historically, the Czech sports environment racism has never been present and noted, neither among the participants of sports events or the organisers nor the case when someone was due to his or her race expelled from the participation in any sports event.

VI.7. Budget Rules Act no. 576/1990 Coll.

The act deals with the legal aspects of the state budget, both from the point of view of income and expenditure and control and deals with support from the state budget in favour of public budgets of communities. This act does not impose an obligation for any budget assistance in favour of privately organised sport on any public office. Nevertheless the act enables MSMT within the extent of its competence to propose state assistance to private sports institutions and to ensure the financial control of expenditures and final accounts. Use of financial resources from the state budget subjects (private sports institutions and clubs) to the procedures of public commercial competition regarding Public Order Act no. 199/1994 of Col., mainly in the field of new investments and other material commodities and in cases of substantial repairs to sports facilities.

VI.8. Administration of (national) Property Order no. 119/1998 Coll.

This regulation of lower legal power was temporarily maintained within Czech legal system even after the former Commercial Law no. 109/1964 Coll. had been replaced by the new Commercial Law no. 513/1991 Coll. The former act, which was the legal basis of the existence of this Order, in the days of totality made it possible to provide, on agreement basis, sports organisations with state land and buildings for permanent use, free of charge, for sport activities.

No law imposes to the state explicitly to provide property etc for privately organised P.E. and sport at public expenses or for private sport managed under acceptable conditions.

VI.9.Community Act no. 367/1990 Coll. and for Capital Prague no. 412/1990 Coll.

This act set the legal position of communities and cities as special public legal entities of local self-government which are relatively independent of the state and are not a part of state administration.

The Act does not explicitly mention P.E. and sport as a sphere which should be assisted by the community within its area and competence as to the budget or working. The act also does not charge the communities with offering its property for satisfying private demand for sports occasions.

Natural binds create space for the support of local sport from community budget. It is estimated that total financial support from community budgets for private sport represents about 1 billion Crowns per year, mainly to cover working and maintenance of sports facilities.
Besides that the communities can positively influence local sports environment through their local regulations by collecting various public fees (for example entrance fees at sports matches etc.).

VI.10. Civil Law no. 40/1964 Coll. (amended 1989)

This law influences for private sport owing to the fact that most of the legal relations in the sports environment have an entirely civil character.

The law tolerates the existence and effect of private sport, and organisational, disciplinary and financial rules are issued by private sport institutions without any direct participation of the state. These rules are obligatory not only for the private organisers of sport and direct participants of sport events (athletes, coaches, judges) but also for „third" parties such as spectators. Such rules are often used in public institutions such as the army, schools or police bodies organising their own sport.

VI.11. Association of Citizens Law no. 83/1990 Coll.

The law is meaningful for the Czech sports movement because clubs and associations, as special types of noncapital legal subjects whose activities are created mostly by their members, are traditional forms of private sport organisation.

VI.12. Generally Beneficial Societies Act no. 248/1995 Coll.

This act has not been so far applied not only by private subjects but also by state for providing generally beneficial services to public. To be objective it should be admitted that the original and principal intention was act, to open the privatisation of at least a part of public sector in deficit mainly in the spheres of school system, health service, social services, public transportation etc. and thus to decrease the load of the state budget.

VI.13. Labour Law no. 65/1965 Coll. (amended after 1989)

The labour Law is fully applied at working of private sports institutions as employers (administrative, organisational, service) coaches, trainers, also professional athletes.

The Bosman case, judgement of December 15, 1995 in which it was stated that sports clubs and federations infringed Article 48 of European Union Treaty for this article guarantees free movement of workers. Although the Czech Republic is not a full member of the European Union, the case has become a challenge for all Czech professional sports clubs and federations organise to revise their internal regulations and thus eliminate in advance any negative impacts of general law on their interests.

VI.14. Commercial Law no. 513/1991 Coll. and regulations connected

This law is in the sphere of enterprise and profit making by which the position of entrepreneurs and trade relations and their legal instruments are defined.

This act is commonly used in sports institutions and clubs and more intensively as the entrepreneurial environment demands commercial bonds. Sports institutions have to take the role of entrepreneur in order to better apply and to protect their property rights.

The majority of enterprise activities are defined by Trade Act no. 451/1991 Coll. which sets conditions to be filled so that the state – can issue the trade authorisation or licence.
It should be mentioned that sport itself and some connected activities commercial, can be carried out on the basis of trade authorisation.

The lottery and Betting Act no. 202/1990 Coll. is a special law for this sphere. For private sport this act is important because in accordance with it Sazka Company carries on lottery games and from the turn-over a non-taxed part of the profit is given over for financing of organised private sport.

VI.15. Prices, taxes, fees and duties connected with sport and institutions concerned

Act no. 526/1990 Coll. specifies the making, regulation and control of prices of products, goods, performances and services in the inland market. The principle of free of prices depending on the stage of offer and demand in the inland market exists.

Act no. 563/1991 Coll . on accounting also fully concerns sports organisations who have to record (according to exactly defined rules) their incomes, expenses and to inventory their property. Depending on having not any income from own enterprise activities and on the amount of these incomes the act defines when it is possible to make so called simple accounting and when double accounting.

Act no. 588/1992 Coll. on natural persons and legal entities taxes also fully and rather negatively impacts on tax background of sports organisations which have to record tax accounting and to forward tax return in case their incomes are under tax duty.

Donation Tax Act no. 357/1992 Coll. abolishes this tax when the donation is accepted by sport organisation for financing of working of sports facilities or humanitarian events irrespective of the amount provided it was included in the tax record. This exemption is not valid when the gift is donated directly to the athlete.

Realty Tax Act no. 338/1992 Coll. concerns also associated sports organisations when they are proprietors, users or tenants of land or buildings without respect whether these realties are used entirely for sports purposes and are under tax duty.

Road Tax Act no. 16/1993 Coll. is applied also to the motor vehicles of sports organisations provided they are fully or partly used for business activities.

Customs Act no. 13/1993 Coll. amended by Executive Order no. 93/1993 Coll. declares sports gifts from foreigners to the Czech sports organisations duty free provided it is an occasional gift whose character, value and amount cannot indicate commercial intention and provided the gift will not be used commercially by the sport organisation.

Local Taxes Act no. 565/1995 authorises the communities to issue for their territory the regulations on for example accommodation capacities taxes, on recreational stay taxes, on using public areas taxes, on entrance fees to sports events etc.

Administrative Fees Act no. 368/1992 Coll. in connection with Executive Order no. 81/1995 Coll. exempts associated sports organisations from the duty to pay administrative fees for administrative work connected with making excerpts from various registers, with verification of the identity of copies with originals, validity of signatures etc.

VI.16. Nature - Forests - Water - Thoroughfares - Construction Activities connected with sport

Act no. 114/1992 Coll. and Act no. 289/1995 Coll. on woods and forests as well as the regulations on national parks, protected natural areas and countryside territories in these territories of mass sports events without advance official permission of the supervisor from the territory.

Water Act no. 138/1973 Coll. and Inland Navigation Act no. 114/1995 Coll. and other executive regulations provide conditions and limitations for using inland water for sports purposes.

Ground Communication Act no. 13/1997 Coll provides that public roads are determined for common public use free of charge or exceptionally charged (highways for example). Occasional organising of sports events on these roads is considered a special use which is conditioned by previous agreement of the supervisor of the road.

Construction Act no. 50/1976 Coll. and further regulations provide conditions for the creation of urban plans and of investment, working and structural use of certain area and further general demands on building and construction and defines the procedure connected with issuing of construction permission, approval decision and realisation of state building supervision.
The Building law is the only branch of the Czech public legal system, which explicitly incorporates private sports rules and regulations into public law.

Fire Protection Act no. 133/1985 Coll defines the duties of all owners and users of constructions, buildings and facilities and conditions of their public control. All buildings and facilities, sports ones included, where 200 adult persons or 50 children can gather have stricter rules of fire protection as well as the rules of their official licensing.

VI.17. Health - Alcohol - Addiction - Doping related to sport

Act no. 37/1989 Coll solves mainly through administrative and repressive means, the negative phenomena which have been assessed as undesirable individual and mass social habits – in the sale and consumption of alcohol and its derivatives, tobacco or smoking and also in the sphere which is by this act called "other forms of addiction which may cause the stage of possible dependence".
The Act expresses, vast scale of absolute prohibitions of sale and consumption of alcohol and tobacco both within sports facilities and during sports events, and providers.

This problem is not however too topical in the sports environment and the essence of sport is a natural obstacle to the further mass spreading of these phenomena in connection with effective health prevention and education.
The problem of doping is unfortunately that of sport itself. The Antidoping Convention of the Council of Europe has the legal force of an act.

VI.18. Author´s and other intangible rights, media related to sport

Sport, its playing effects and performances and their bearers cannot be involved in the effect of the protection of Author´s Act no 35/1965 Coll.

One Basic characteristic of each legal entity is, its name, registered in the respective public list and thus legally recognised. That is why all private sports institutions, regardless of their legal type (association, foundation, business company etc.) must have its name which may not be confused with the name of an other legal entity of the same type. The registration itself in the public list guarantees the protection of the legal entity which can be exacted at the court.

VI.19. Criminal Law and Sport

Contrary to civil labour, business, tax, or administration law where responsibility and sanctions involve both natural persons and legal entities the topical criminal law concerns only natural persons - and only under the conditions voiced in the Criminal Law no. 140/1961 Coll amended by further regulations.

Organising private sports events, competitions and matches, even when open to the public, in the facilities adjusted for that purpose and implementation of private sports rules do not subject to public law and do not demand any official permissions. There is an exception for those cases when sport is to be organised in a place originally resigned for a different purpose and needs as e.g. roads, public spaces, waters, nature, lands etc. when it is necessary to obtain in advance an official permission for temporary occupation of the place or for the entrance to the place.

It is certainly a significant fact for all involved in sport that private disciplinary punishments imposed by private sports bodies for infringement of private sports rules hindrance to any consequent implementation of public criminal law for the same action of the same participants in the same place and time. The increased incidence of violence in sport, both amateur and professional, when many physical attacks occur, both permitted and forbidden by sports rules, can be of the interest of civil criminal bodies which can investigate the suspicion of some criminal act e.g. grievous bodily harm.

A great majority of private sports events are organised on a club or association principle based on voluntary membership in a sports club or association. In this context it should be mentioned that the Criminal Law defines in its § 238 the characteristics of a criminal act - infringement of the freedom of association.

Appendix A

List of Statutory Instruments and Documents Concerning Sport since 1948

1. Declaration of the Bureau of Central Action Committee of National Front from 28 February, 1948 on Sports Movement Uniting

2. Governmental Order no 14/1949 Coll on departments for schools, education and P.E. within Regional National Committees

3. Governmental Order no. 80/1949 Coll on the internal organisation Prague´s bodies of people´s administration

4. Governmental Order no. 139/1949 Coll on the organisation of people´s administration in districts

5. State Care of P.E. and Sport Act no. 187/1949 Coll.

6. Act of Slovak National Council no. 5/1950 Coll. on the organisation and constitution of the Slovak Committee for P.E. and Sports

7. Governmental Order no. 39/1950 Coll. - Organisational Regulations of the State Committee for P.E. and Sports

8. Public Notice no. 940/1949 and no. 240/1950 Ú.I.I. on the jurisdiction and internal organisation of departments for schools, education and P.E. of Regional National Committees

9. Public Notice no. 38/1951Ú.I.I. on the structure and tasks of the committees for schools, sciences and arts and the committees for P.E. and sports and the committees for culture at National Committees.

10. Governmental Order no. 38/1951 Coll. on honours and honour titles in P.E. and Sports.

11. Resolution of the Party and Government on the measures for the development of P.E. and sports from 10. 11. 1952 and 2.12. 1952.

12. Organisation of P.E. and Sports Act no. 71/1952 Coll.

13. Organisational Rules of the State Office for P.E. and Sports for the committees for P.E. and Sports from 18. 12. 1952 (published in the Collection of Circular Letters for Regional National Committees no. 660/1952).

14. Statute of the State Committee for P.E. and Sport, approved by Cabinet from 26. 8. 1953

15. National Committees Act no. 13/1954 Coll

16. Governmental Order no. 23/1954 Coll on organisation of executive bodies of National Committees.

17. Instructions of the State Committee for P.E. and Sports on the organisation of and competence of the Committees for P.E. and Sports from 4. 5. 1954.

18. Resolution of the Political Bureau of the Central Committee of Communist Party of Czechoslovakia on amendment of the structure of the Czechoslovak sports movement.

19. Governmental Order no. 15/1956 Coll. on honours in P.E.

20. Organisation of P.E. and Sports Act no. 68/1956 Coll.

21. Governmental Order no. 82/1958 Coll. on honours in P.E. and sports.

22. National Committees Act no. 65/1960 Coll.

23. Governmental Order no. 71/1960 Coll. on the enhancement of competencies and responsibilities of National Committees and the structure of their bodies.

24. National Committees Act no. 69/1967 Coll. (in amendment published by Czech National Council no. 28/1972 Coll).

25. Statute of Coordinational Committee for P.E. at Central Committee of the Czechoslovak Sports Federation (ÚV ÈSTV), (approved 3. 12. 1967).

26. Governmental Order no. 9/1968 Coll. on the establishment of the departments of National Committees.

27. Constitutional Act no. 143/1968 Coll. on Czechoslovak Federation.

28. Czech National Council (hereinafter ÈNR) Act no. 2/1969 Coll. (which besides others establishes Ministry of Youth and P.E. of the Czech Socialist Republic).

29. Statute of the Collegium of Minister for Youth and P.E. from 2. 6. 1969.

30. Contemporary Statute of the Ministry of Youth and P.E.

31. ÈNR Act no. 34/1970 Coll. on the abolishment of Ministry of Youth and P.E.

32. Governmental Order of the Czech Socialist Republic (hereinafter ÈSR) no. 34/1970 Coll. on establishment of departments of National Committees.

33. Governmental Order of the Slovak Socialist Republic (hereinafter SSR) no. 136/1971 Coll. on establishment of departments of National Committees.

34.Principles of development of P.E. in the Czechoslovak Socialist Republic (hereinafter ÈSSR) in the terms of the Resolution of XIV. Congress the Communist Party of Czechoslovakia (hereinafter KSÈ), (approved 15. 12. 1972).

35. Principles for establishment and activities of committees for youth and P.E. of National Committees (Resolution of the Government of ÈSR no. 134/1976 and No. 102/1982, Resolution of the Government of SSR no. 267/1976 and no. 150/1981).

36. Resolution of the Government of ÈSSR no. 80/1978 which establishes the Committee for P.E. and Sports of the Government of ÈSSR, analogical resolutions on the level of both republics: Government of ÈSR no. 119/1978 and Government of SSR no. 117/1978.

37. Principles for the creation of common programmes for the development of P.E. and sports - approved by Committee for P.E. and Sports of the Government of ÈSR on 17.12. 1980.

38. Statute of the Committee for P.E. and Sports of the Government of ÈSSR - approved by the Resolution of the Government of ÈSSR no. 243/1982.

39. National Committees Act no. 31/1983 col.

40. Resolution of the Bureau of the Central Committee of KSÈ and the Government „on the current stage and the programme of further mass development of P.E., sports, tourism and paramilitary sports from 10. 9. 1986.

41. Slovak National Council Act no. 1988 Coll. (which beside others established Ministry of Education, Youth and P.E. of SSR).

42. ÈNR Act no. 60/1988 Coll. (which besides others established Ministry of Education, Youth and Sports ÈSR), amended by ÈNR Act no. 228/1990 Coll.

43. Statute of Ministry of Ed., Youth and Sports of ÈSR, approved by Resolution of the Government of ÈSR no. 202/1988.

44. Slovak National Council Act no. 198/1990 Coll. on physical culture.

45. Act no. 173/1990 Coll. which abolishes Act no. 68/1956 Coll. on the organisation of P.E. and on some relations concerning voluntary sports organisations.

FINLAND

FINNISH LEGISLATION AFFECTING SPORT

A paper outlining the institutional framework for sport in Finland and the relationship between sport and the law

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APPENDIX: STATUTES AND REGULATIONS

1. *STRUCTURE OF THE FINNISH SPORTS SYSTEM*

According to the general principle of the Finnish sports system, it is the task of public administration, i.e., the state and the municipalities, to establish the prerequisites for sports and physical activity. In practice, sports organisations and other organisations carry primary responsibility for organising sports.

1.1. Public sector

National level

In Finland, the Ministry of Education takes responsibility for state sports policy and for creating the general prerequisites for sports activity. Within the Ministry, sports functions belong to the Department for Sport and Youth Affairs (beginning January 1, 1998, to the Department for Cultural Policy). The Department for Sport and Youth Affairs includes the Sports Division, which employs 11 persons. The Ministry carries out its task by granting state aid to activities which promote sports, and by working together with other authorities who are responsible for sports. The Sports Act, enacted in 1979, creates a statutory basis for the activity. According to the act, general management and control of sports functions belong to the Ministry of Education.

The National Sports Council, appointed by the Council of State for four years at a time, serves as the Ministry of Education's expert organ. The Sports Council encompasses the Sub-Committee for Sports Policy, the Sub-Committee for Research in Sports and Physical Education, and the Sub-Committee for Adapted Physical Activity. The Sports Council employs three full-time secretaries.

From the appropriations available to it, the Ministry of Education finances the following sports-promoting functions:

- Activities of national and regional sports organisations
- Tax-free state grants for top athletes
- Organisation of important sports events in Finland and travel to top competitions abroad
- Construction and operation of national and regional sport institutes
- Research projects in sports sciences and the activity of sports sciences organisations
- Municipal sports functions- Construction of sports facilities
- International collaboration

Including the Office of the Prime Minister, Finland has 13 ministries. Tasks affecting sports also fall within the operating sectors of ministries other than the Ministry of Education (see chapter 2).

Regional level

Beginning on September 1, 1997, under the new Act on Provincial State Offices, Finland will have 6 provinces, in place of the current 12. In the provinces, the provincial state offices function as the units of state administration. The tasks of the provincial state office include, among other things, the promotion of sports in the province. The tasks of the provincial state offices' sports functions are handled by 12 sports inspectors.

Twenty regional councils established by municipalities also function at the regional level. These councils may also have tasks related to the promotion of sports and physical activity.

Local level

Finland has 452 self-governing municipalities. They create prerequisites for sports activity by promoting regional and local co-operation, providing sports facilities, and supporting civic sports activity. When needed, they also themselves organise sports and physical activity, particularly for senior citizens, persons with disabilities, and persons with certain diseases. The tasks of the municipalities in the realm of sport are prescribed at a general level in the Sports Act. The task of assuring opportunities for outdoor exercise has been assigned by law to the municipalities.

In the municipalities, various boards, differing in terms of names and tasks, attend to sports matters. Broad-based leisure-time or education boards are common today. A total of about 6 000 persons work in municipal sports tasks, the greatest number of these workers being engaged in the care and maintenance of sports facilities. Municipalities own the greatest part of the 28 000 sports facilities in Finland. A few hundred persons attend to administrative and sports-instruction tasks.

1.2. Voluntary sector

In the Finnish sports system, sports organisations occupy a central position. Some 700 000 Finns, half of them under the age of 15, participate in sports and other physical activity organised by such organisations, whose work is founded largely on volunteer activity. Sports organisations also have paid personnel: In national organisations paid workers number about 500, in regional organisations 60-70, and in sports clubs (professional athletes excepted), about 550.

National level

Finland has a total of 110 national sports organisations that receive state aid. Of these, five are national service organisations, 71 are special federations, 11 are sports organisations for groups with special needs, and four are organisations which promote sports and recreational activity for students and schoolchildren. The organisations support the operations of their member clubs and take responsibility for national and international competitive activity in their respective sports.

The Finnish Olympic Committee is in charge of the Olympic movement in Finland. The committee encompasses 43 special federations; of these, 33 represent Olympic sports while 10 represent other elite sports. Three central sports organisations are also members. The Finnish Paralympic Committee is responsible for Olympic sports for persons with disabilities.

The sports organisations have established the Finnish Sports Federation as their joint service and advocacy organisation. A total of 118 national and regional sports organisations belong to the federation. The sports organisations' other national service organisations include Young Finland, which specialises in sports for children and young people and has 48 member associations; and the Sport for All Association, which offers fitness sports services for adults, and has a membership of 28 national special federations.

Regional level

Sports organisations have established a total of ten joint regional service organisations. The regional organs' tasks include supporting the activities of sports clubs by offering them for example training and administrative services.

Local level

Finland has a total of about 6 000 sports clubs, in which more than a million Finns are members. This figure represents about 23 % of the population. Some 400 000 persons serve in the organisations' volunteer managerial, instructional and coaching positions.

1.3. Commercial sector

National level

Many national-level enterprises sponsor sporting events, sports organisations, or top athletes. The sports industry and trade also often finance product development and research in the field. Certain enterprises also support their workers' sports and exercise pastimes by constructing sports facilities for their personnel's use or subsidising the use of sports services subject to fees. Either independently or as a part of occupational health care, many enterprises offer their workers programmes which promote working ability. Sports and exercise represent a significant component of these programmes.

Local level

Small, local enterprises often sponsor local sports clubs. They may also support their workers' sports and exercise pastimes, either independently or as part of occupational health care.

In recent decades, a considerable number of small sports-service enterprises have sprung up - in the fields of aerobic and fitness gyms and sports tourism, for example. Among sports facilities, golf courses, tennis and squash courts, downhill skiing centres and bowling halls are usually owned by private enterprises.

2. TASKS OF THE DIFFERENT MINISTRIES IN THE SPORTS AND RECREATION FIELDS

Ministry of Education

The Ministry of Education directs Finland's policies on education, science, culture, sports and youth. The Ministry's sports policy tasks are depicted under point 1.1. above.

The Ministry of Education's Department for Education and Science Policy is responsible for school physical education, vocational and higher education and research in the field of sport. Physical education is both a compulsory and an optional subject in comprehensive schools, upper secondary schools and vocational institutions. The number of compulsory physical education lessons is one to three a week, depending on the type and level of the school. For university-level students, physical education is not compulsory, but universities generally provide students with opportunities for leisure-time sports and exercise. Many adult education centres and folk high schools offer physical education courses. University-level sport-science degrees are provided for in a 1994 decree. The Ministry of Education makes decisions regarding vocational degrees in physical education.

Ministry of Defence

Finland's defence policy and Defence Forces fall within the operating sector of the Ministry of Defence. In Finland men are obliged to perform military service. Women may serve in the military on a voluntary basis. In practice, the general staff, which is subordinate to the Ministry of Defence, takes responsibility for physical education in the Defence Forces. Physical education occupies an important place in the training of conscripts. Each year, about 160 athletes complete their military service in the Sport School of the Defence Forces. About half of the 11-month period of service is devoted to conscript training, about half to athletic training. The Defence Forces also support elite athletes serving in the military in their training for international top competitions. This is done by organising camps for members of the training groups, and by making it possible to train during working hours. Voluntary sports organisations function in conjunction with the Defence Forces, providing both conscripts and core personnel with leisure-time opportunities for sports and exercise.

Ministry of Social Affairs and Health

The Ministry of Social Affairs and Health is responsible for Finland's social-security and health-care systems. Sports and physical activity are part of the programme in the sphere of day nurseries and various social-care institutions (homes for children, young people, mentally retarded persons, and so on). The Ministry of Social Affairs and Health is also in charge of the social-security system created for professional athletes.

In health care, sports and physical activity enjoy an important role in preventive measures (disease prevention and health promotion) as well as medical therapy and rehabilitation. Municipal health centres, special hospitals and the occupational health care system implement the tasks. The Ministry funds the activities of the UKK Institute for Health Promotion Research, which studies the connections between sports and health. The Ministry's jurisdiction also encompasses regulation of the manufacture, importation and sale of doping substances.

As joint undertakings in preventive health care, the Ministry of Education and the Ministry of Social Affairs and Health are implementing the 1995-2000 Fit for Life programme, which is targeting persons 40 to 60 years old, and the Active and Healthy School project 1996-1998, which is aimed at the improvement of school physical education. In 1996 - 1997, the Ministry of Social Affairs and Health and the Ministry of Education are co-operating in funding an Antidoping campaign for fitness studios, schools and sports organisations. The campaign is organised by the Finnish Antidoping Committee. In 1998, as a part of its health-education work, the Ministry of Social Affairs and Health will launch a campaign against smoking by children and young people. Sports organisations will play a significant role in that campaign.

Ministry of Labour

The Ministry of Labour assumes responsibility for labour market policy in Finland.

The general labour legislation applies to all employees. Recent decisions of Finland's Supreme Court have made it clear that professional team-sport competitors have employment relationships to their respective clubs. This means that the entirety of labour legislation, including the Employment Contracts Act, the Working Hours Act, and the Act on Annual Holidays, also affects professional athletes. In the same fashion, the legislation binds the sports clubs as employers.

As a part of its employment policy, the Ministry of Labour and its subordinate labour districts purchase labour market training for their clients, primarily the unemployed and people facing the threat of unemployment. This training may include physical activity among other things. Local employment offices are given allocations that finance activity which maintains and improves working abilities, and exercise has a place in this activity.

The Ministry of Labour provides a statement, from the perspective of employment, on sports-facility construction projects funded by the Ministry of Education. In addition to other building projects, the labour districts can finance construction of sports facilities for employment reasons.

In 1996-1997, the Ministry of Labour has financed a sports organisations' employment initiative with project, training and employment subsidies, in accordance with the Employment Act.

Ministry of Justice

The tasks of the Ministry of Justice are to maintain and improve legal order and legal protections, and to attend to the basic structures of democracy and the fundamental rights and legal protection of the citizen.

The Finnish court system, which functions under the Ministry of Justice, also considers disputes involving sports. In the prison system, which is also under the Ministry, sport is one of the leisure-time activity modes offered to prisoners, and may also be a part of the prisoners' compulsory daily activity programme. The Ministry's responsibility also includes legislation on the activities of associations. This legislation forms the basis of the activity of sports organisations.

Ministry of the Interior

The Ministry of the Interior deals with regional and local administration, regional development, and internal security. The provincial state offices and the municipalities fall under the Ministry's Department of Municipal Affairs. The Ministry's Police Department takes responsibility for security at sporting events and grants permits for the international transport of weapons to be used in sport shooting. The Ministry's jurisdiction also includes lottery legislation - which is important from the standpoint of state financing of sports - and many activities such as raffles and bingo, which are important to the fund-raising of sports organisations and clubs. The Ministry and its subordinate Directorate of Immigration are responsible for the citizenship questions as well as for the work permits of foreign athletes and coaches.

Ministry of Transport and Communications

The Ministry of Transport and Communications is responsible for passenger and goods transport, the transport infrastructure, telephonic activity, and the mass media. Decisions made by the Ministry concerning ground, waterborne and air traffic create parameters important from the standpoint of possibilities for engaging in various sports (walking, jogging, bicycling, water sports, automobile racing, and sport aviation). The Finnish Civil

Aviation Administration, which is subordinate to the Ministry, is in charge of various tasks that affect sport aviation; these include flying regulations, airfields, aviation safety, and licences for flight and training personnel. The Ministry is also responsible for mass media and thereby for TV and radio broadcasting operations which concern sport.

Ministry of Agriculture and Forestry

The tasks of the Ministry of Agriculture and Forestry are to promote the sustainable and diversified use of natural resources, and to develop rural occupations and the recreational use of rural areas. With respect to sport, the Ministry's tasks are for example to improve conditions for recreational fishing and hunting, and to administer hunting and fishing licence matters. The Ministry also has a large number of tasks which concern horse racing: horseback riding as a supplementary farm occupation and a part of rural tourism, animal protection, permits for the international transport of livestock, and so on.

Ministry of the Environment

In its activity, the Ministry of the Environment advances the implementation of principles of sustainable development in environmental and housing policy. The Ministry has important tasks connected to sports, outdoor exercise and the recreational use of natural areas. In Finland, the right of public access to privately owned natural areas has been preserved by law. The Ministry shares responsibilities for planning and land-use supervision, finances the construction of walking and jogging paths, takes responsibility for hiking and camping areas and promotes possibilities for the recreational use of waterways and natural areas. From its research appropriations, the Ministry has financed the design of environmental-control systems for certain sports and sports events. The Ministry supervises construction in Finland by issuing building regulations, which are also applied in the construction of sports facilities.

Ministry of Trade and Industry

In Finland, the Ministry of Trade and Industry is responsible for public industrial policy, industrial development, energy policy, policies on trade and tourism, and operating prerequisites for small and medium-sized enterprises. As regards tourism, the Ministry's district offices (beginning September 1, 1997, regional business centres) are able, within the framework of the available appropriations, to support product development work by various types of programme-service enterprises. Sports-service enterprises enjoy a substantial role here. The Ministry can also grant supports for the international marketing of individual sports events. The Ministry of Trade and Industry serves as the Ministry of Education's expert on energy questions related to sports facilities, for example. The Ministry of Trade and Industry is also in charge of restraint-on-competition legislation and, together with the Ministry's Office of Free Competition, supervises that legislation's enforcement. The National Board of Patents and Registration, also subordinate to the Ministry, functions, in accordance with the Associations Act, as a registry authority which maintains a list of registered Finnish associations.

Ministry of Finance

The Ministry of Finance attends to the state economy and the state's financial policies. The Ministry prepares of the state budget the annual budgeting frameworks, including the framework of the sports budget, and the actual budget proposal. The Ministry drafts all new tax laws and international tax agreements. Among other offices, the Ministry encompasses the tax and customs institutions. The taxation matters of organisations and athletes alike belong to the Ministry's Tax Department, and, as its central subordinate administrative unit, the National Board of Taxes. The National Board of Customs bears responsibility for supervising import and export shipments which cross the national frontiers, and thus performs an important task in preventing the smuggling of doping substances, for example.

Ministry for Foreign Affairs

Finland's foreign and security policy represents the operating sector of the Ministry for Foreign Affairs. The Ministry is in charge of international state agreements and memberships in international organisations, for example. From the standpoint of sport, the important international organisations include UNESCO, the Council of Europe and the European Union. In addition, Finland has concluded bilateral cultural-co-operation agreements with 42 other countries.

Finland joined UNESCO in 1956. Finland became a member of the Council of Europe in 1989. Finland acceded to the Council's European Cultural Convention in 1970, however, and has since participated in sports co-operation with the credentials of a full member of the Council. In 1987, Finland acceded to the European Convention on Spectator Violence and Misbehaviour at Sports Events, and in particular at Football Matches. Finland became a party to the Anti-Doping Convention in 1990. The International Charter of Physical Education and Sport, approved by UNESCO's 20th General Assembly, is applied in Finland as a recommendation. The Finnish government applies the European Sports Charter and Code of Sport Ethics as recommendations.

The country became a member of the European Union at the beginning of 1995. Since 1993, however, Finland was already a part of the European Economic Area, membership in which brought the country within the internal market except in the agricultural sector.

The Ministry of Education takes practical charge of international sports co-operation based on the aforementioned agreements.

3. LEGISLATION AFFECTING SPORT

A large portion of general legislation (such as legislation on taxation or building) affects the sports sector in the same fashion as the other sectors of society. To some extent, however, special legislation on sport and physical activity has also been enacted in Finland.

3.1. Historical development of legislation

The 19th century

Finland's national school system took shape in the mid-1800s. Physical education was included in the compulsory subjects right from the start. In 1943, for example, the Secondary School Decree fixed the number of physical education lessons at four to five a week in the lower secondary forms, and four in the upper secondary forms. Since then the number of gym lessons has been gradually reduced.

Finland's first sports clubs were founded in the 1860s. National sports organisations began to be established at the end of the 1800s.

The 20th century

At the beginning of the 1900s, legislation on association activity came into existence, its purpose being to guarantee citizens the freedom to assemble and form associations. Finland was then an autonomous Grand Duchy within the Russian Empire.

Finland became independent in 1917. At that time, sports matters belonged to the Ministry for Ecclesiastical and Educational Affairs. In 1920, on the basis of a report by Parliament's Education Committee, the Ministry established a State Sport Board, whose members represented central sports organisations and the state. The board awarded subsidies for the activities of sports organisations and sport institutes, and for the construction of sports facilities. In 1966, the Office for Sport and Youth Affairs was established in the Ministry of Education's General Department, and in 1973 the office became a department. At the beginning of 1998 the organisational scheme will change so that sport matters will be assigned to a new, broad-based Department for Cultural Policy, which will include a Sports Division.

Finland's defence system came into existence in 1918. Physical fitness is important from the standpoint of the Defence Forces, and for that reason physical activity and sport have been an important aspect of operations from the start. The Defence Forces Act was enacted in 1974.

The first sport institutes were established at the beginning of the century to satisfy the population's sports needs and provide the managerial and coaches' training required by expanding sports-club activity. At first the state granted the sport institutes discretionary subsidies. Funding later became statutory, first on the basis of the Workers' Institutes Act and then, since 1962, on the basis of separate legislation on state aid for sport institutes.

A 1952 decree established provincial sport boards. Later, when the Sports Act came into force in 1980, statutory sport boards came into existence. These organs had full-time secretaries. As a result of the provincial reform being implemented in Finland in 1997, the boards in their present statutory form will be abolished on September 1, 1997. Their functions will then be transferred to the provincial state offices.

In the 1950s, sport boards also began to be set up in the municipalities. Under the Sports Act, the sport boards became mandatory, and the state began to grant the municipalities statutory state aid for certain sports tasks. The system for state funding shares for municipalities was revised in its entirety in 1993, in which connection the municipality's population became the basis for the funding share. At the same time, the sport boards were abolished as separate statutory boards, and municipalities may now exercise their discretion in setting up boards and organs.

Parliament passed the Sports Act in 1979. The statute created prerequisites for improving Finland's sports functions systematically. As circumstances have changed, a number of changes have been made in the statute. These concern state aid to sports organisations, tasks of and state funding shares for municipal sport services, tasks of provincial state offices, and the status of the provinces' sport boards. A comprehensive reform of the statute will be prepared in the Ministry of Education in autumn 1997, the intention being to bring a revised Sports Act into force at the beginning of 1998.

3.2. *Central provisions of current legislation*

Sport is not mentioned in Finland's constitutional laws, which for the most part were enacted in the early part of the century. In 1995, Finland adopted a broad fundamental-rights reform, in which constitutional provisions were changed by incorporating basic civil rights into Chapter II of the *Constitution Act* (969/1995). Article 13 of the revised Constitution Act provides for basic rights to education. The explanatory memorandum accompanying the bill sent by the government to Parliament states that public functions by which the individual's opportunities to improve him- or herself are advanced shall also concern the practice of sport and other physical culture (HE 309/1993 vp).

The Lotteries Act (491/1965) and the decrees based thereon make provisions regarding the use of surplus revenues from pools betting. The state-owned Oy Veikkaus Ab has a monopoly on pools-betting operations. Veikkaus's total estimated yearly profit is incorporated into the state budget under the Ministry of Education's account, for budget items related to science, art, sport, and youth work. Sport's share of the earnings is set at 36.6 %, but, for reasons of state finance, this standard has been diverged from since 1992. Sport's share of earnings from pools-betting games is presently about 24 %. The appropriation allocated in the state budget for sport is distributed in the form of subsidies to different purposes which advance sport.

The Sports Act (984/1979) came into force on January 1, 1980. The statute prescribes principles for the distribution of labour in the sports system, state and municipal tasks in the promotion of sports, the tasks and structure of the National Sports Council, and appropriations to be granted for purposes which promote sport.

In granting subsidies to national sports organisations, special attention must be given to the nature, breadth and social significance of the organisation's activity, as assessed on a performance basis. A registered national or regional association whose primary task, in accordance with its regulations, is the organisation of sports or exercise, or another activity which advances these, can be approved as a national sports organisation eligible for state subsidies. For special reasons, another national organisation which functions in the field of sports culture can also be approved as being eligible for state subsidisation. The purpose of state subsidies granted for sports-facility start-up projects is to promote the construction, acquisition and outfitting of sports facilities and related leisure facilities intended for the needs of large user groups in particular. The construction of sports facilities is also regulated by the Building Act (370/1958).

The Sports Decree (1087/1979), the Decree on Provincial Sport Boards (611/1987) and the Council of State Decision on the National Sports Council (1124/1991) were issued on the basis of the Sports Act.

The Decree on Sports Culture and Sports Medals (665/1983) was issued separately. A cross or medal may be given in recognition of work done for the good of Finnish sport and sports culture.

The Sport Institute Act (801/1992) is in force with regard to the tasks and administration of sport institutes and the state funding shares they receive. Finland has 11 national and 3 regional sport institutes. They serve sports organisations as training and coaching centres for competitive and top sport, and provide training leading to vocational degrees in the sports field. They also organise physical and health education courses intended for the general public. A comprehensive reform of school legislation was introduced in Parliament in the spring of 1997. The reform would also affect sport institutes. The intention is to repeal laws specific to types of educational institutions. In the future, the vocational training given in physical education at sport institutes would be organised in accordance with a statute on vocational education, while education which is not directed toward a degree would be provided under a statute regarding education for personal enrichment. Plans call for implementing the reform in 1999.

The municipal organisation of sports administration, establishment of organs and founding of job positions are matters of each municipality's discretion. The selection, composition and other administrative organisation of such organs is regulated by *the Local Government Act* (365/1995). The municipality's primary, mandatory organs are its council and executive board. In addition, a municipality may have, at its discretion, committees and other boards. The activity and tasks of the municipality's different organs and office-holders, and the apportionment of their authority, are specified in a guideline approved by the municipal council. The Sports Act makes provisions regarding the tasks of sports services while *the Act on the Financing of Educational and Cultural Provision* (705/1992) prescribes state funding shares to be allocated to municipal sports activities.

Finland acceded to *the Council of Europe Anti-Doping Convention* in 1990. Finland's sports organisations had founded the Finnish Antidoping Committee in 1982, to handle tasks connected with the control of doping. Finland has no separate antidoping legislation; the Medicines Act, rather, is applied to control the use of doping substances. According to *the Medicines Act* (395/1987), doping substances are medicines. Their importation, manufacture and sale are subject to licensing, and the prescribed notifications about the substances must always be made to the authorities. Under the Medicines Act, illegal practices are punishable by fine or up to one year's imprisonment. The smuggling of medicines is punished under the *Penal Code* as smuggling, and is punishable by a fine or up to two years' imprisonment.

Finland's accession to *the Council of Europe European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches*, approved in 1985, came into force in March 1987.

In principle, Finland's general *tax laws* also affect associations and athletes. Regulations important from the standpoint of sports organisations and athletes are contained in the statutes (Income Tax Act, Value Added Tax Act, Act on Tax Exemptions for Certain Non-Profit Organisations, Act on Taxation of the Income and Capital of Taxpayers with Limited Tax Obligations, Real Estate Tax Act). Non-profit organisations, such as sports organisations generally are, are for the most part exempted from paying tax on income from their primary activity. Through a separate application procedure, they can also receive an exemption on income from their commercial activities. Under the Income Tax Act, athletes pay taxes on the salaries and fees they receive. A 1995 amendment to the Income Tax Act made it possible, however, for the state to make tax-free grants to top athletes.

Sport is also affected by Finland's *labour law*, i.e. the entirety of legal norms applicable to employment. Provisions of the Employment Contracts Act, the Working Hours Act and the Act on Annual Holidays are applied to both coaches and professional athletes who are employed by sports clubs or organisations.

A reform of social security arrangements for team-sport athletes was implemented in 1995. The athlete's employer - the sports club or organisation, for example - is obliged, by means of private insurance, to provide him or her with security for retirement, and against the possibility of disability, an accident or the death of the head of household. The scheme applies to any athlete who has a contract with his or her employer for athletic performances, if the athlete's taxable earnings from sports total FIM 56 540 or more.

Sports and exercise are also affected by the provisions of many other laws, including environmental protection legislation, consumer protection legislation, data security legislation, and legislation on ground, waterborne and air traffic.

Membership in the European Union affects sport through the EU's general legislation. In particular, the principle of the free movement of goods, services, labour and capital, and regulations on restraints on competition, also have an impact on sport in Finland.

4. FINANCING

4.1. Financing at the national level

Each year, through the state budget, the Ministry of Education distributes more than FIM 400 million for purposes which promote sport and physical activity. Most of this sum is allocated from pools-betting funds to the Ministry's use in the state budget. Chapter 1 (point 1.1) explains how the appropriation is used for various purposes which promote sports and exercise.

In addition to the sports appropriation, the Ministry of Education grants the municipalities a state funding share, out of general budget funds, for the costs of general and vocational education functions. Education and research at university-level institutions are also financed from the Ministry of Education's budget. The other ministries finance their sports-related activities as a part of their ministerial budgets in like fashion.

The costs of the national sports organisations' primary activities totalled about FIM 325 million in 1996. The organisations received about FIM 92 million in state aid, representing 24.4 % of their expenditures.

4.2. Financing at the regional level

Within the limits of the appropriations allocated to them by the Ministry of Education, the provincial state offices grant state aid for the construction of so-called small sports facilities, i.e. those costing less than FIM 2 million, in the respective provinces. The provincial state offices also receive a Ministry of Education appropriation for their own operations.

In 1996, regional sports organisations used about FIM 21.5 million for their operations. The regional organisations received FIM 12 million in state aid from the Ministry of Education, this sum representing 55.8 % of their expenditures.

4.3 Financing at the local level

Each year, Finland's municipalities devote about FIM 2 billion to the operating expenses of outdoor-exercise and sports functions. The costs of maintaining sports facilities account for the greatest part of this sum. Above and beyond operating expenses, the municipalities devote about FIM 500 million yearly to the costs of establishing sports facilities. State aid for the operating expenses of sports functions totals FIM 90-100 million yearly; for construction subsidies, the figure is FIM 60-70 million.

The turnover of sports clubs totals about FIM 2 billion a year. The municipalities subsidise the sports clubs with FIM 190-200 million each year.

5. *CURRENT LEGAL QUESTIONS*

5.1. *Legislative reform initiatives affecting sport and pending as of autumn 1997*

A comprehensive revision of the Sports Act is to be prepared in the Ministry of Education. Plans call for submitting the proposal for the new Sports Act to Parliament in autumn 1997. The law would enter into force on January 1, 1998.

Parliament is considering a comprehensive revision of educational legislation. The Ministry of Education prepared the revision. Plans call for the revised legislation to enter into force in 1999. The package of laws will affect, among other things, sport institutes, vocational training in physical education, and school physical education.

In addition to the revision of the Sports Act and the reform of the educational legislation mentioned earlier (chapters 3.1. and 3.2.), the following reform initiatives are pending as of autumn 1997.

The Ministry of the Interior is preparing an amendment to the lottery legislation. The objectives include improving the conditions for raffle and bingo activities.

The Ministry of Finance has established a working group to clarify special questions related to the taxation of athletes and sports organisations. The group has until December 31, 1997, to complete its work.

In the Ministry of Social Affairs and Health, clarifications are being made regarding the extension of social security to athletes in individual as well as team sports.

On June 30, 1997, the European Union approved a change in the so-called Television Without Frontiers' Directive. The change concerned the broadcasting of events of special importance to society. The Ministry of Transport and Communications is preparing a new Public Broadcasting Act, which will contain provisions on the granting of operating licences to public broadcasting companies, as well as matters required by the Television Directive.

5.2. *Possible disputes*

In 1990 Finland's sports organisations established the Finnish Sports Arbitration Panel to settle disputes as a matter of the organisations' internal procedure. Recently, however, an increasing number of disputes have arisen in Finland between athletes and the organisations, disputes which have been impossible to resolve within the sports system. Many of these have been brought before the regular courts for resolution.

Current disputes involve questions related to professional athletes' employment relationships, for example, inasmuch as a start has been made only in recent years to apply the norms of labour law in the sports sector. Differences of opinion between athletes and organisations are also leading to disciplinary actions, such as penalties for doping. Problems have recently arisen regarding the rights of association members, also.

APPENDIX

STATUTES AND REGULATIONS

ADMINISTRATIVE SECTOR OF THE MINISTRY OF EDUCATION

Sports Act
(984/1979, amendments 1147/1983, 306/1987, 1108/1991, 1476/1991, 727/1992, 1091/1993, 26/1996, 1164/1996)

Sports Decree (1085/1979, amendments 1147/83, 1317/1992, 1475/1993)

The content of the Sports Act is treated above under points 1.1 (page 1) and 3.2 (page 12). Further provisions have been made via the decree.

Council of State Decision on the National Sports Council (1124/1991)

This decision given on the basis of the Sports Act makes stipulations as to the establishment, composition, term, organisation and tasks of the National Sports Council, which serves as an expert organ for the Ministry of Education.

Decree on Provincial Sport Boards (611/1987)

This decree given on the basis of the Sports Act makes stipulations as to the establishment, composition, term and tasks of the provincial sport boards, which will be abolished on September 1, 1997.

Decree on Sports Culture and Sports Medals (665/1983)

The content of this decree is treated above under point 3.2 (page 12).

Act on the Financing of Educational and Cultural Provision (705/1992)

This act prescribes the state funding shares to be granted to municipalities for educational and cultural functions. The municipality receives state funding shares for sports activities on the basis of its population. The amount in Finnish marks per resident which is the basis of the funding share is approved each year in the state budget. The act also prescribes subsidies to be granted to municipalities for sports-facility start-up projects.

Council of State Decision on the Financing of Educational and Cultural Provision (860/1992)

According to this Council of State decision, which was issued on the basis of the Act on the Financing of Educational and Cultural Provision, the estimated expenses of a sports facility eligible for subsidisation must total at least FIM 500 000. The provincial sport board is the state aid authority for sports-facility start-up projects whose estimated expenses are FIM 2 million or less.

Sport Institute Act
(801/1992, amendments 1090/1993, 1360/1994, 1455/1994, 305/1995, 1458/1995, 1160/1996)

Sport Institute Decree (1019/1992, amendments 1476/1993, 1276/1996)

The Sport Institute Act makes provisions for the establishment, tasks, and administration of national and regional sport institutes, as well as the state aid they receive. Further provisions have been made via the decree.

Council of State Decision on Projects for the Establishment of Sport Institutes Receiving State Funding Shares (536/1994)

According to this Council of State Decision, which is issued on the basis of the Sport Institute Act, the total costs of a project to establish the sport institute must be at least FIM 200 000.

Comprehensive School Act (476/1993)
Upper Secondary School Act (477/1993)
Vocational Institutions Act (487/1987)

The Comprehensive School Act and the Upper Secondary School Act define the school's educational objectives, which, particularly in comprehensive schools, include physical education objectives. The statutes also specify the school's main academic subjects, which include physical education and health education. Amounts of physical education instruction are specified by Council of State decisions. With respect to vocational education, subjects which are common to all pupils and students are specified by decision of the Ministry of Education; those subjects include physical and health education.

Decree on Degrees in Sport and Health Sciences (327/1994)

This decree makes provisions regarding sport-science degrees completed in the University of Jyväskylä's Faculty of Sport and Health Sciences.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF DEFENCE

Defence Forces Act (402/1974)

A new section, 5a, was added to the 1974 Defence Forces Act in 1995 (740/1994). The new provision assigns the Defence Forces such tasks as supporting voluntary national defence and otherwise furthering activities which promote the national defence will and improve the physical condition of the citizens.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF SOCIAL AFFAIRS AND HEALTH

Day Nursery Act (36/1973)

Section 2a of this act sets out the educational objectives of day nursery care. These include physical, psychological and social growth and development. Physical education has a role in day nursery activity.

Public Health Act (66/1972)
Act on Special Health Care (1062/89)
Decree on Medical Rehabilitation (610/1991)

Section 14 of the Public Health Act prescribes the municipality's tasks in public health work. Under that section's first paragraph, the task is to provide health counselling, which includes guidance in exercise and healthy ways of living. The same act's section 14, paragraph 3 and section 1, paragraph 2 of the Act on Special Health Care provide for medical rehabilitation, which is defined more precisely in the Decree on Medical Rehabilitation. Various forms of rehabilitation may incorporate sports and physical activity.

Act on Rehabilitation Activities Provided by the Social Insurance Institution (610/1991)
Decree on Rehabilitation Activities Provided by the Social Insurance Institution (225/1997)

The Act on Rehabilitation Activities Provided by the Social Insurance Institution prescribes provision of and compensation for rehabilitation for persons in poor condition and persons with severe disabilities, when those persons are insured in accordance with the Pensions Act and the Sickness Insurance Act, and their ability to work has been fundamentally weakened because of a disease, defect or disability. One of the modes of rehabilitation is exercise.

Act on Services and Support Functions Provided on the Basis of Disability (759/1987)

The municipality must provide services and support functions to persons with disabilities, the objective being an ability on the part of persons with disabilities to cope independently in society. The support functions include such things as transport, interpretation, residential, rehabilitative and clothing services, as well as help in obtaining necessary personal aids. The obtaining of aids and the transport services may also involve sports and exercise.

Act on the Payment of Social Security Contributions by Employers (375/1995)

This act obligates all employers to make social security contributions in order to finance the social security of the citizens (child benefit, medical insurance, retirement plan). The act exempts from the employer's social security obligation the fees and salaries paid to Finnish and foreign athletes for athletic performances. Advance-tax withholding must be paid on salaries and fees, but the social security contribution and the employer's premiums for retirement pension insurance, accident insurance and unemployment insurance are not paid. A separate social security scheme has been created for professional athletes.

Decree on the Provision of Pension Security and Accident Security to Athletes (537/1995)

The content of this decree is considered above under point 3.2 (page 11).

Medicines Act (395/1987)

The Medicines Act makes provisions regarding, among other things, the manufacture and importation of medicines, as well as their sale and other conveyance for consumption. Doping substances are medical substances in the sense of the Medicines Act. Licences for the sale of all doping substances legally on the market are subject to the condition that they may be conveyed for consumption only on the order of a physician, and can be sold on a retail basis only in a pharmacy.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF LABOUR

Labour Market Training Act (763/1990, amendment 1319/1994)

This act prescribes the adult education which the labour districts, within the limits of their available appropriations, may purchase for their clients from different educational institutions. The education purchased may include physical education.

Employment Act (275/1987)

This act prescribes measures which promote employment: manpower services to be offered in order to ensure that citizens are placed in jobs (employment offices, career counselling, labour market training, jobs and practice positions for young people, special services for persons in poor physical condition, labour market subsidies); and the granting of employment appropriations to investment projects. According to the statute, employment subsidies can be allocated to the sports sector and so-called third-sector jobs projects.

Manpower Services Act (1005/1995)

This act prescribes the tasks of employment offices and career counselling offices. Exercise may be a part of the activity offered to the office's clients in order to promote working ability.

Employment Contracts Act (320/1970)

The foundation of labour law is the employment relationship, which determines whether or not the norms of labour law are to be applied. The five characteristic features of an employment relationship are defined in the Employment Contracts Act. Athletes in a way constitute a problem case, since it is not easy to draw the line between athletic activity as employment and athletic activity as a pastime. General labour law is applied to coaches and instructors.

Working Hours Act (604/1946)

The Working Hours Act is a general law which is applied to questions involving working hours when they are not prescribed elsewhere in the law or agreed upon in collective bargaining. Application of the act's provisions to professional athletes and coaches is creating problems.

Act on Annual Holidays (272/1973)

The Act on Annual Holidays provides for the worker's right to an annual holiday.

Wage Security Act (649/1973)

A wage security system has been created for workers. Coaches and professional athletes, among others, fall within the sphere of the scheme. If an employer goes bankrupt, the worker can receive, for unreceived pay, a compensation from a so-called wage security fund, which is paid for with employer contributions.

Application of Aliens Act (378/1991) and Aliens Decree (449/1991) to sports Ministry of Labour Application Directive M 1/94 TM

The Aliens Act and Aliens Decree make provisions regarding the arrival and departure of foreigners from the country, and their residence and performance of work. Section 14 of the act and section 12 of the decree prescribe work permits. The Ministry of Labour has issued an application directive concerning work permits for athletes and coaches. The directive has eased work-permit practice fundamentally as regards sports. The directive concerns citizens of countries outside the European Union.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF JUSTICE

Act Amending the Constitution Act of Finland (969/1995)

Finland's constitution, enacted in 1919, was amended in 1995 by among other things adding to the constitution provisions about basic economic, social and educational rights. According to article 13, paragraph 2 of the amended constitution, the government shall assure all persons of an equal opportunity, in accordance with their abilities and inclinations, to receive education other than basic education, and to improve themselves without being hindered by lack of means. According to the legislation's explanatory memorandum, the possibility of developing oneself encompasses sports and exercise. Special legislation gives the implementation of these rights tangible form.

Associations Act (503/1989)

The Associations Act applies to the activities of all non-profit associations. On a general level, the act makes provisions on the association's establishment, registration, decision-making, administration and discontinuance, and on membership and members' rights.

Act on the Enforcement of Penalties (33/1889)

According to a 1995 amendment (128/1995) to this act, a prisoner is to be able to be outdoors daily and engage in appropriate physical activity. The prisoner's health must be taken care of otherwise as well (section 8).

Decree on the Care of Prisoners (878/1995)

Section 45 of this decree makes provisions regarding the leisure-time activity of prisoners. According to that section, prisoners must among other things be given the opportunity for exercise, and for sports activity adapted to the conditions of the institution.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF THE INTERIOR

Lotteries Act (491/1965)

Pools betting, lottery, bingo, and casino activities, as well as the maintenance, for paying use, of slot machines dispensing money or merchandise, are considered lotteries under the Lotteries Act, the basic statute on money-game activities.

Pools-Betting Decree (241/1993)

The Pools-Betting Decree, which is issued on the basis of the Lottery Act, grants the state-owned company Oy Veikkaus Ab a monopoly on the organisation of lotteries and pools betting and odds betting operations.

Decree on the Use of Surpluses from Lottery and Pools-Betting Games (725/1982)

According to this decree, which is issued on the basis of the Lottery Act, Oy Veikkaus Ab's estimated annual profit is incorporated into the state budget under the Ministry of Education's account, for use in science, art, sports and youth work. Sports' share of Veikkaus's profit is prescribed as being 36.6%. For reasons of state finance, the decree has been temporarily changed in this regard each year since 1992.

Act on Provincial State Offices (22/1997)

Decree on Provincial State Offices (120/1997)

This act and the decree based thereon make provisions regarding the number of provinces and the tasks of the provincial state offices, among other things. The provincial state office attends to tasks related to sport, among other matters. On September 1, 1997, when the act enters into force, the current sport boards will be abolished and their tasks will be transferred to the provincial state offices.

Local Government Act (365/1995)

The content of this act is considered under point 3.2, above (page 11).

ADMINISTRATIVE SECTOR OF THE MINISTRY OF TRANSPORT AND COMMUNICATIONS

The following legislation from the administrative sector of the Ministry of Transport and Communications places important parameters on the practice of certain sports, such as walking, jogging, bicycling, water sports, auto racing and sport aviation.

Road Traffic Act (267/1981)

The Road Traffic Act makes provisions regarding technical requirements and traffic regulations for motor vehicles, as well as traffic routes, such as roadways and bicycle paths.

Waterborne Traffic Act (463/1991)

The purpose of this act is to promote the safety of water traffic and to prevent the disturbance which the use of waterborne vehicles imposes on nature, fishing, and the public's enjoyment of nature. The law prescribes, among other things, permits for the organisation of practices and competitions to be held with waterborne motorised vehicles.

Aviation Act (281/1995)

This act contains provisions regarding flying regulations, the construction of airfields, technical stipulations for aircraft, aircraft maintenance, registration of aircraft, flying licences, and pilots' training licences. The act also applies to sport aviation.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF THE ENVIRONMENT

Outdoor Recreation Act (606/1973)

This statute makes provisions for the establishment of walking and jogging paths, plans for such paths, the establishment of hiking areas on state land, and the establishment and maintenance of camping areas.

Off-Road Traffic Act 1710/1995

The purpose of this statute is to prevent the disturbances to nature, the rest of the environment, occupations based on nature, and public recreational use that are caused by the utilisation of motor vehicles off roads and on snowmobile trails. The act contains provisions on such things as permits for the establishment of snowmobile trails and the organising of practices and competitions to be held with motorised vehicles.

Noise Control Act (381/1987)

The Noise Control Act prescribes, among other things, an obligation to report temporary activities which cause exceptionally disturbing noise to the municipal environmental board, which may issue orders for the control of the noise. As examples, the law mentions motorised sports competitions and other sports, entertainment and exhibition events.

Building Act (370/1958)

The Building Act makes provisions respecting the planning of areas and basic standards for the security, healthiness, environmental protection and energy economy of buildings and building sites. The enforcement and supervision of the statute's provisions are assigned to the municipalities. The statute also applies to the construction of sports facilities.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF TRADE AND INDUSTRY

Package Tour Act (1079/1994)

This act concerns travel agency services. Sports tourism organised as package tours falls within the scope of the statute.

ADMINISTRATIVE SECTOR OF THE MINISTRY OF FINANCE

Act on Taxation of the Income and Capital of Taxpayers with Limited Tax Obligations (627/1978)

This statute makes provisions respecting the taxation of fees paid to foreign persons. From fees received by athletes, 15 % must be withheld; from those of other persons (such as coaches and referees), 35 % is withheld.

Income Tax Act (155/1992)

The Income Tax Act prescribes the principles of personal and corporate taxation. The act also affects athletes and sports organisations, for example. According to the statute, everyone is obligated to pay taxes on income received. The statute prescribes the terms of non-profit activity. On this basis, non-profit organisations are exempted from the payment of taxes on income from their primary activities. In 1995, a new provision was added to section 82 of the act, whereby world-class athletes named by the Ministry of Education can be given tax-free state stipends.

Advance-Tax Collection Act (418/1959)

Under the Advance-Tax Collection Act, the employer must pay advance-tax withholding on salaries he or she pays. The advance tax is therefore paid on fees paid to athletes, coaches and referees.

A decision of Finland's Supreme Administrative Court has made so-called athletes' training funds possible. These funds are maintained by associations for particular sports. Under certain conditions, the fees received by an athlete can be paid into the fund without advance tax. The athlete can withdraw money from the fund for his or her training expenses tax-free, and for living expenses on a taxable basis.

Act on Tax Exemptions for Certain Non-Profit Organisations (680/1976)

Under certain conditions, non-profit organisations engaged in socially significant activity can be exempted from income tax as regards commercial activity, even although the tax would have to be paid under the Income Tax Act.

Value Added Tax Act (1501/1993)

For the Value Added Tax Act, business activity is the point of departure. The general value added tax rate is 22 %. Under the act, sports services break down in terms of taxation into three different groups: sports services offered by associations, municipalities and business enterprises. A non-profit organisation is subject to value added taxation only if the income it receives from the activity in which it is engaged is considered corporate business income under the Income Tax Act. The limited nature of the business activity may however relieve the organisation of its value added tax obligation. This limited-activity provision is not applied to municipalities: The value added taxation of municipal sports services has its own special features. The value added tax rates applied to business entrepreneurs are 6 % for admission-ticket income and 12 % for sports services.

Real Estate Tax Act (654/1992)

Under this statute, 0.2 - 0.8 % of a real property's value must be paid yearly in real estate tax. The statute is also applied in the field of sports. A municipal council may however stipulate a tax rate below the general real estate tax rate of 0.2 %, or waive taxation altogether, on a headquarters or club-house owned by a workers' association, youth club or farmers' association, if the building is for the most part in public or non-profit use.

ADMINISTRATIVE SECTOR OF THE MINISTRY FOR FOREIGN AFFAIRS

Decree on the Carrying into Force of the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches (147/1987)
Decree on the Carrying into Force of the Anti-Doping Convention (465/1990)

FRANCE

THE LEGAL RULES GOVERNING SPORT IN FRANCE

I - THE DUAL NATURE OF SPORT IN FRANCE

A - Sport as a private activity
    1 - Adjustments to the ordinary rules of law
    2 - Sports legislation

B - Sport as a public service
    1 - Assignment of the organisation of competitions to federations
    2 - Application of administrative law as a legal consequence of delegation

II - JOINT MANAGEMENT OF SPORT IN FRANCE

A - Collaboration in the fixing of sports policies
    1 - Statutory collaboration
    2 - De facto collaboration

B - Public aid
    1 - State aid
    2 - Local authority support

III - SETTLEMENT OF SPORTS DISPUTES

A - Difficulties in resolving sports disputes in state courts
    1 - Problems of jurisdiction
    2 - The slowness of the law

B - Conciliation as a response to the search for solutions adapted to the particularity of sport
    1 - Article 19 of the Law of 16 July 1984 introducing conciliation
    2 - The conciliation procedure

Originally, sport was a purely private activity, developing as a result of individuals forming clubs and then federations to structure the sporting movement thus created. Its increasing importance in society and the recognition that it has an educational, social and cultural role to play, plus the prestige attached to international competitions, aroused the interest of the public authorities. The acknowledgement that sport has a beneficial effect on the community meant that it was seen as being of public interest, which resulted in its acquiring public service status.

This situation is the outcome of slow developments, the first stage of which was marked by the Order (*ordonnance*) of 28 August 1945, which saw the State first taking sport into consideration. Then, in 1975, legislation was introduced to organise relations between the State and the sports movement. This interpenetration between private and public authorities was enshrined in the Law of 16 July 1984, which constitutes the fundamental statute relating to sport. It was amended in 1987 and by the Law of 13 July 1992.

In France, sport is thus characterised by its dual nature (I). It is managed jointly by public and private bodies (II). Its particularity is also seen in the procedure for resolving disputes (III).

I - THE DUAL NATURE OF SPORT IN FRANCE

A - Sport as a private activity

Sport as a private activity is subject to the ordinary rules of law.

Thus, the breach of an employment contract by an employer is subject to the same rules as apply to an "ordinary" employee.

In order to dismiss the employee, the employer must have good and genuine cause (*"cause réelle et sérieuse"*) if the contract is for an unfixed term, or provide evidence of serious misconduct if it is a fixed-term contract. In addition, the employer must comply with ordinary legal procedures.

The same goes for competition law, which covers sport too. The considerable powers which sports federations have, amongst other things in the field of commercial contracts (equipment suppliers, television companies, ticket outlets, etc) are subject to the competition rules laid down in Articles 85 and 86 of the Treaty of Rome and in the Order (*ordonnance*) of 1 December 1986. Contracting by such federations must be open to competition. Sport is regarded as a fully economic activity and is thus subject to competition rules.

However, the special nature of sport may lead to legislation or court decisions in which these ordinary rules of law are adapted to its particularity (1). When such rules prove to be too ill-suited, special statutory provisions peculiar to sport have to be adopted (2).

1 - Adjustments to the ordinary rules of law

The particularity of sporting practice and of the rules peculiar to sport make it necessary for the courts to adjust the application of statutes and statutory instruments, or for parliament to insert provisions.

- Thus, in the field of civil liability, contrary to the terms of Article 1382 of the Civil Code ("Any deed committed by one person, which causes harm to another, obliges the person as a result of whose misconduct it occurs to remedy it"), the person responsible for a tort is not systematically held liable when it comes to sport. Although the ordinary rules of law allow any victim to obtain amends for harm suffered, the courts must adapt this rule to the particularity of sport.

Three ingredients are necessary for a person to be held liable for a tort. There must be misconduct, harm and a causal link between the misconduct and the harm. Misconduct is evaluated with reference to the abstract standard of behaviour of a reasonable man (a "respectable father" (*"bon père de famille"*) in the words of the Civil Code).

In the field of sport, this principle is adjusted by giving consideration to the practice of a given social activity (ie sport) by the sportsperson. The standard for evaluating misconduct is qualified by the willingness of the participants to accept the risks inherent in such activity.

The courts do not evaluate misconduct with reference to an abstract standard, but in the light of the rules peculiar to sport. Thus, sportsmen and women cannot be held liable for any behaviour which is in accordance with proper and fair practice of their sport.

For example, there may be no redress for an injury sustained in the course of a game, as the courts consider that the victim accepts the risk inherent in practising a sport.

It then remains for the courts to decide only what risks are normally accepted in the discipline practised. The sportsman or woman who caused the harm is liable only when he or she has committed "a serious indiscretion, wilful assault or an unfair act". A distinction is thereby drawn between sporting misconduct and civil misconduct, a person having committed the former being liable only under the aforementioned conditions.

- French courts have also had to rule on the application of company law to professional clubs, for example with respect to insolvency proceedings. They have thus been required to apply the Law of 25 January 1985 relating to business recovery and liquidation under court supervision. Although the purpose of this statute is to allow businesses and jobs to be saved and debts cleared, courts have taken into account sports rules, designed to ensure fairness in competitions, by allowing the possibility of a penalty (relegation of a club to the division below) in the event of a court-ordered recovery package.

The ordinary rules of law apply also to employment contracts arising in connection with sport (sportsmen and women, instructors, coaches, etc), although there has been statutory provision to take account of the special nature of sport.

The Employment Code requires that contracts should be made normally without a fixed term, but allows fixed-term contracts to be made in a limited number of special cases. This rule is strictly applied for all employees in the sporting sector (coaches, instructors, etc) except for those who have the status of professional sportsmen/women, for whom an exception is provided in Articles L. 122-1-1 and D. 121-2 of the Employment Code. Professional sport is one of those sectors of activity in which it is "a consistent custom not to use contracts without a fixed term, on account of the nature of the activity performed and the inherently temporary nature of such jobs".

Although courts generally apply the ordinary rules of law, they have regard to the special characteristics of sport.

2 - Sports legislation

There are areas of sport which are too "unusual" for the ordinary rules of law to be applied, even in an adapted form.

This is why special legislation has been adopted in those areas where the particularity of sport is most marked, the purpose being to reconcile such particularity with the laws of the Republic. Although the particularity of sport must be safeguarded and protected, it cannot be limitless. The ultimate limit is set by the general principles of law, from which legislation may not depart.

The main sports statute is the Law of 16 July 1984, as amended, relating to the organisation and promotion of physical and sporting activities. This statute may be regarded as the French "sports constitution". Its scope extends mainly to the fields of physical education in schools and the special rules governing sports associations and companies, federations and the Olympic movement. It also deals with the problems of elite sport, sports facilities and sports training and professions. It also defines the nature of the relations between the sports movement and the public authorities (see 2 below).

Besides matters inherent in sport, like the organisation of sports bodies and elite sport, certain areas where the ordinary rules of law could not be applied, due to the particularity of sport, have been specified in legislation.

Other statutory measures have been introduced to amend the rules applicable to sport and adapt them its development.

The first amendment concerns the status of sports clubs.

Such status, which was laid down as early as 1975, gave sports associations of a "professional" nature the possibility of setting themselves up as companies.

The Laws of 7 December 1987 and 13 July 1992 changed this possibility into an obligation and introduced a distinction between two kinds of French sports groups - associations and companies.

- The first category covers two kinds of association.

- Ordinary associations are the most significant in terms of numbers (over 100,000). The principal structure for sports organisations in France is that of a non-profit making association as defined by the 1901 Law on associations. Such associations may be formed freely and affiliate to the federation of their choice, forming the sports movement.

- Associations with "strengthened articles". Associations which regularly engage in commercial activities must change into companies. However, as a special exception, they may remain as associations - a status much cherished by clubs - provided their financial state of health is impeccable and that they adopt "strengthened " articles. The latter organise the way the association operates and are intended to guard against risks caused by badly drafted articles of association.

  As, in recent years, some of the activities of sports associations have begun to generate large earnings (professional sport, for the most part), the legal framework within which such activities are managed has had to be changed.

- The second category comprises clubs which regularly engage in activities of a commercial kind (the criteria used are the proceeds from the organisation of sports events and the total annual pay of the sportsmen and women employed, the ceiling for each of these two sums being set at 2.5 million). Such clubs are obliged to set themselves up as companies. This category also divides into two sub-categories.

- Private companies limited by shares (sociétés anonymes) with a sports-related purpose. They operate differently from traditional commercial companies. The association from which they originate must hold a third of the capital and a blocking minority. Also, any profits which the company may make may not be distributed, which is contrary to the very spirit of commercial law.

- Mixed economy companies, which give local authorities an interest in a club's operations. The association, alone or with the local authority, must hold a majority of the shares and the voting rights in the decision-making bodies.

Although such companies are created in accordance with the usual rules of company law, the way they operate has had to be adapted to the particularity of sport.

For example, in order to guard against any impropriety in the conduct of competitions, the law forbids any one person to belong to two sports companies whose corporate purposes relate to the performance of one and the same discipline.

The Law of 13 July 1992 made considerable changes to certain other aspects of the 1984 Law, so as to take account of developments in French sport.

It thus introduced regulations concerning exclusive television broadcasting rights. It is specified that these are vested in the organiser of the event, who is free to transfer them. However, this right of transfer must be exercised within the limits set by the general principles of law, which include the right to information. It is stated that such transfer of rights of exploitation cannot prevent images from being broadcast by rival channels in news bulletins, free of charge. The statute includes a further detail to the effect that the exclusive transfer of the right of exploitation cannot prevent other communication services from having access to the event.

The safety of sports facilities is another area dealt with by the 1992 statute. Sport may lead to large gatherings of people and the safety of such people must be ensured to be met before a sports venue may be opened to the public. Increasing intensity in the practice of sport has also led the State to protect the safety of players and referees through the compulsory installation of special equipment (protective fencing, mobile goals, resistant basketball panels, etc). Safety at events was further strengthened by the Law of 6 December 1993, designed to combat violence in stadiums by regulating access thereto (no dangerous objects admitted, people in a state of drunkenness denied access, etc).

There has been extensive regulation of paid teaching of sport. The public authorities' objective is to protect the health and safety of those practising sport. The principal means of achieving this objective is the qualification requirement laid down in Article 43 of the 1984 Law.

However, this strict provision proved to be contrary to Article 48 of the Treaty of Rome, which establishes the free movement of workers within the Community, insofar as it made access to the profession difficult. This difficulty was due to the conditions under which qualifications were issued.

Article 17 of the second European directive of 18 June 1992, which set up a system of generalised recognition of sports qualifications and professions, was transposed in France in 1997.

In addition, the principle of freedom to provide services was the subject of an Order (*décret*) dated 25 November 1996 with respect to subjects of the European Union and the European Economic Area.

The rules applying to foreigners are the same as those applying to nationals: prior notice must be given of the teaching of sport, thereby allowing the public authorities to check the approval of the instructor's qualifications.

The system of equivalence of qualifications, established by an Order (*décret*) dated 21 September 1989, places nationals and European subjects on an equal footing for the teaching of sport.

In addition, public health concerns, together with the need for sports competitions to be conducted in a satisfactory and upright way, led to the 28 June 1989 anti-doping Law. This statute deals with the fight against the illegal use of performance-enhancing substances and divides responsibilities between the State and the sports movement.

The matter was left to sports bodies to begin with, but its increase led to parliamentary intervention. This occurred as early as 1 June 1965 with the introduction of legislation bringing the illegal use of performance- enhancing substances within the ambit of criminal law, in order to overcome the lack of punishment of guilty sportsmen and women by the sports movement.

As this system proved ineffectual, a new formula was established by the 1989 statute.

The system set up by this statute consists in a combination of public and private action. The use of performance-enhancing substances is prohibited and the sports movement makes sure that this provision is complied with by punishing sportsmen and women, as well as their aiders and abettors (doctors, coaches, etc).

B - Sport as a public service

The growth of sport has led the State to institutionalise the sports movement and guarantee the operating of sport, considered as a public service. In order to ensure a harmonious system, legislation has given certain federations a monopoly over their disciplines (1). This system of state recognition has resulted in the powers of such federations being made subject to administrative law (2).

1 - Assignment of the organisation of competitions to federations

The task of organising competitions was delegated to federations as a result of sport becoming a public service.

It was in 1974, during litigation relating to the approval of table-tennis balls, that the Conseil d'Etat, the supreme administrative court, first qualified sport as a public service. A public service was held to exist in relation to the organisation of sports competitions. This task of public interest identified by case law was then to be recognised and extended by statute in 1975 and 1984.

The notion of public service established in the 1984 statute covers not only the organisation of competitions, but also the issuing of *licences*, the training of voluntary technical supervisory staff and, more broadly, initiatives for promoting physical and sporting activities.

The public service of sport therefore covers various functions. Although some of these may be performed by general sports federations, the organisation of competitions must be dealt with by one single federation for each discipline. The 1984 statute differentiates between federations according to the extent of their recognition by the State. It distinguishes between, on the one hand, federations which are merely approved and may take part in the performance of the public service and, on the other hand, federations to which powers have been delegated and which have wide-ranging prerogatives in their disciplines.

- The first stage of state recognition is the approval which the minister responsible for sport grants to federations at his or her discretion. In order to be approved, federations must meet several conditions.

- They must comply with the general principles of law, such as freedom of thought, observance of rights of defence and non-discrimination. It is right that ministerial approval should be given only to federations whose moral standards are beyond reproach.

- Federations must also comply with provisions relating to safety and ethics in the discipline as laid down by the French National Olympic and Sports Committee (CNOSF - Comité National Olympique et Sportif Français).

- Lastly, in order to be approved, they must offer their practitioners the administrative structures and technical expertise necessary for practising their discipline.

  In order to be associated with the performance of the public service, approved federations must adopt standard articles of association (which in fact always happens), requiring their bodies to operate democratically and calling for a certain openness with regard to finances.

- The second stage of state recognition is the delegation procedure.

- Delegation confers prerogatives on the federations.

These prerogatives result from Article 17 of the 1984 Law, which provides that "in each discipline and for a fixed period, only one federation shall be given delegated authority by the minister responsible for sport to organise competitions leading to the award of international, national, regional and departmental titles ". Only single sports federations may be given such authority (whereas general sports federations may receive approval).

This delegation entrusts them with the task of organising competitions and is accompanied by wide-ranging prerogatives for doing so.

Although delegation is granted at the discretion of the minister, the latter's power is considerably limited by the very organisation of sport. As international federations recognise only one federation per state, it is difficult for the minister not to recognise that federation. The minister is in actual fact bound by the international federations.

- The purpose of the delegation.

  The purpose of the delegation covers the organisation of competitions at the end of which international, national, regional or departmental titles are awarded. This task is delegated to the empowered federations. Thus, competitions are, for the most part, organised by a single federation within each discipline. Unity and cohesion are thereby strengthened within the discipline.

- Protection of the organising function

  The 1992 statute contains numerous stringent provisions guaranteeing the prerogatives necessary for organising competitions. Thus, only federations with delegated powers may bear the name "French ...... Federation" or "National ...... Federation".

  Likewise, no one may award a title of French, regional or departmental champion. Those federations which are merely approved are, however, allowed to award such titles subject to the inclusion of the name of the federation (eg French Cycling Champion of the National University Sports Federation).

  The wide-ranging prerogatives at the disposal of the federations with delegated authority do not, however, give them a monopoly over the organisation of competitions.

  Unity and cohesion in the practice of a discipline calls for legislation forbidding the organisation of competitions leading to the award of titles. However, there is nothing preventing non-empowered federations and other private persons from organising other competitions. Thus, they are free to organise any competitions in which the prizes awarded to the winners do not exceed 10,000 French francs. Once this amount is reached and the competition is open to persons holding licences from the federation with delegated authority, the organisation of the event requires authorisation from that federation.

  The law lays down heavy fines for failure to comply with these rules.

  In order not only to dissuade organisers, but also to deter licence-holders from taking part in competitions which have not been authorised by "their" federation, criminal penalties are laid down for the former and disciplinary penalties for the latter.

2 - Application of administrative law as a legal consequence of delegation

Federations wielding delegated powers performing a public service are subject to administrative law if their acts are characterised by public authority prerogatives (*prérogatives de puissance publique*).

Although such prerogatives have never been precisely defined in case law, they are identifiable inasmuch as they depart from those enjoyed by ordinary associations. The assignment of wide-ranging prerogatives to empowered federations gives them more extensive powers than those normally devolved to other associations. The concept has been specified by the courts in the course of litigation and includes all unilateral acts by empowered federations, whether such acts be regulatory (general and impersonal) or individual (intended for a single person).

Measures of an administrative nature connected with the organisation of competitions include:

- Disciplinary powers of federations enjoying delegated authority.

These federations have considerable power of their own to make sure unity is respected in the practice of their sport. The exercise of this power is subject to review by the administrative courts, which have jurisdiction to decide whether or not a decision made in the context of performing a public service is in compliance with the law. (Ordinary associations also have disciplinary power, but it is the ordinary courts which punish misuse of such power.)

- Power of federations to issue regulations. This power is exercised inter alia in laying down administrative regulations for competitions, such as promotion or relegation to another division, measures guaranteeing the proper conduct of competitions, etc.

- Access to competitions, including the issue of licences and selection for international competitions.

The consequence of making the unilateral acts of federations public acts is that such acts become governed by public law.

The independence of sports federations makes it impossible for the sports minister to set aside any of their decisions, even if such decisions do not comply with the law. However, the size of such federations gives them increasing powers, the exercise of which needs to be monitored. Qualifying federations' decisions as administrative acts allows the question of their compliance with the law to be reviewed by the administrative courts.

Sports institutions with delegated powers must therefore observe the principle of compliance with administrative law. In the absence of specific legislative provisions, the courts have been led to recall that the general principles of law apply also to sport. They have affirmed that the exercise by such federations of their disciplinary powers is subject to the rules which apply in litigation. Thus, the observance of rights of defence and the possibility of appealing against a decision imposing a penalty are procedural principles which apply in the sporting field.

Placing sport in the public-law domain goes even further, since the sports federations involved in the performance of a public service (and not only, in this case, empowered federations) are thereby obliged to comply with rules governing public services. Administrative courts have thus ruled on sports federations' being subject to the equality principle.

Problems relating to nationality have led to much litigation, especially in basketball. A provision in an administrative regulation limiting to two per match the number of players listed on the match-sheet who are either foreign citizens or have been naturalised for less than three years was set aside by the courts.

Any provisions in the regulations of federations which are contrary to these principles are accordingly liable to be set aside.

II - JOINT MANAGEMENT OF SPORT IN FRANCE

The dual nature of sport, both public and private, is reflected in the joint management of sporting matters on a political (1) as well as a financial (2) level, not that this ever impinges upon the autonomy of the sports movement.

A – Joint framing of sports policies

State recognition also allows the public authorities to be involved in the framing of sports policies.

1 - Statutory collaboration

Although the sports system and the state system interrelate, the latter penetrates the former without depriving it of its autonomy.

The sports movement has developed outside the public domain and state recognition does not undermine its independence.

However, its public service nature plus the allocation of public funds give the State a say in the fixing of the policy of each federation. This is why contracts of objectives were introduced by statute in 1992. Such contracts are signed by the minister and the president of the federation and set the objectives and the resources to be employed for developing the practice of the discipline in question, as well as the integration of sportsmen and women into working life.

The dialogue between public authorities and the sports movement appears also, and perhaps even more so, in the national council responsible for managing the National Sports Development Fund (FNDS - *Fonds National de Développement du Sport*). Created in 1979, the national council comprises representatives from the ministry and the sports movement in equal numbers and is responsible for allocating funds from the FNDS. Alongside the national council there are regional commissions. The allocation of funds is done jointly by the public and private sports partners involved, although the decision to incur the expenditure is always a governmental one.
Elite sport is also a notable area of co-operation. This is seen in particular within the National Commission for Elite Sport (*Commission Nationale du Sport de Haut Niveau*). Comprising equal numbers of State and CNOSF representatives, this commission "fixes the list of criteria for defining the status of elite sportsman/woman in each discipline" and submits a list of elite sportsmen and women to the minister. There is true co-management here, inasmuch as management is assumed jointly by the State and the sports movement and the proposals made by the sports movement are binding upon the minister.

2 - De facto collaboration

Besides this co-operation enshrined in statute, the sports movement and the public authorities meet informally as events and issues require.

It should be noted, to begin with, that the sports movement is constantly consulted in the process of drawing up the rules that apply to sport. Even though power lies ultimately with parliament or the government, the proposals made by sports bodies are taken into consideration prior to any decision.

Next, the various partners come together according to the events marking French sporting life. This was the case for the organisation of the 1992 Winter Olympics in Albertville and has been the case for the 1998 World Cup. The organising committees must have talks with the public authorities on financial problems as well as on safety and infrastructures. The local authorities concerned, as well as the State, take part in these discussions.

This collaboration at local level is also found in the organisation of the practice of sport on a daily basis. The importance of the public service of sport at local level leads to meetings between the decentralised public authorities and local sports organisations for the purpose of jointly determining the local sports policies to be implemented. The fact that town associations are often heavily dependent for finances makes the weight of the public authority greater. The allocation of grants is increasingly determined by a set of criteria defined by local authorities according to their own objectives (mass sport, social activity, training, etc). Thus, sports associations must make the efforts which the towns desire in order to obtain adequate subsidies.

B - Public aid

1 - State aid

As a public service, sport is justified in receiving state support, in order to foster its development in terms of both quantity and quality. Whilst it is desirable that as many people as possible practise a sport, it is essential, first of all, that this sport is practised in the best possible conditions. Aid takes the form mainly of direct financial support and providing the sports movement with technical staff.

The State contributes financially to the sports movement by way of the State budget and the National Sports Development Fund.

- The portion of the budget of the Ministry of Youth and Sport (*Ministère de la Jeunesse et des Sports*) which relates to sport amounts to 1.75 billion francs, approximately 0.2% of the State's budget.

This sum is used for major sports facilities or the functioning of the sports movement.

To this sum should be added that which is reserved for sport in the state education system's budget, ie approximately 5.5 billion francs. The size of this sum is explained by the scope of the task the State sets itself in relation to physical education, enabling all French youngsters to be introduced to the practice of sport at school.

- This budgetary expenditure is supplemented by the National Sports Development Fund (FNDS).

This fund is intended to encourage the practice of sport and is fed by proceeds from football betting (*Loto Sportif*) and horse betting (*Pari Mutuel Urbain*) and part of the duties on alcoholic drinks. In 1998 more than a billion francs are made available to sport through this fund.

The fund is divided into two branches: one concerns mass sport and the other elite sport. A part of the fund is allocated at national level and the other part at regional level, this being then distributed directly to clubs in collaboration with the Regional Olympic and Sports Committees (*Comités Régionaux Olympiques et Sportifs*).

In addition to this expenditure, the State also contributes to the development of sport by making staff available to the sports movement (national technical directors and regional or departmental technical officers). This service is provided for in Article 16 of the 1984 Law and allows the state authority to provide its sports partners with qualified coaching staff to ensure the reliable and high-quality development of the discipline benefiting therefrom. The State funds the employment of almost all of the technical staff in the federations and their local bodies (regional and departmental committees), ie currently around 1,500 people.

Such staff belong either to the state corps of physical education teachers (*Professeurs d'Education Physique et Sportive*) or sports instructors (*Professeurs de Sport*), or they may be personnel employed by the State under individual contracts.

The former two categories are bodies of public servants who are directly answerable to the State. They are made available to a sports federation, which exercises an employer's prerogatives over them (power of management, etc). The third category consists of staff whose members are recruited for a fixed period on account of their expertise in the chosen discipline.

2 - Local authority support

As sport is of an eminently local nature (it is practised daily in towns), local authorities have been led to meet the needs of sportsmen and women whose activities were of sufficient public interest. For a long time towns have been involved in sport, in particular with regard to facilities and in the form of support for sports associations.

The so-called Decentralisation Laws of 1982-1983 reinforced this involvement and brought in the other tiers of local government, namely the departments and the regions. In this way true local sports policies develop in association with the sports movement.

The sum made available to sport by local authorities currently approaches 25 billion francs.

This funding is justified by the fact that sport is of local public interest by virtue of its educational and health aspects and as a source of activity and social cohesion. Such involvement encourages the practice of sport by everyone in the best possible conditions.

The principal areas in which aid is provided are sports facilities, covering both construction and upkeep (almost all sports facilities are owned by local authorities), mass sport (training of instructors, organisation of activities) and elite sport.

Although such support of the local system of associations allows sport to be practised on a daily basis, it comes up against a double problem.

In order to cope with the over-involvement of some towns and the economic crisis, by which local authorities have not been spared, legislation was introduced in 1992 forbidding any guarantee of loans taken out by sports associations (Article 19-2 of the 1984 Law). Indeed, when up against financial difficulties, sports associations all too often took refuge behind the guarantees given by their local authorities, which then faced problems themselves, as they had to bear the consequences of the financial decisions made by sports club officials. As the repercussions for local taxpayers were too great, parliament stepped in very firmly in 1992 to protect local authorities against claims from their sports associations.

A similar concern to consolidate public finances led the French State to regulate local authority funding of so-called "professional" sport.

As the funding of professional clubs could jeopardise the economic health of local authorities, it had to be prohibited.

In 1994, legislation was introduced to eventually prohibit local authorities entirely from subsidising professional clubs.

The clubs covered are those which meet the conditions laid down in Article 11 of the 1984 Law, namely those whose earnings from the organisation of sports events (proceeds from ticket sales, advertising and television rights) are greater than 2.5 million francs and which pay a similar amount for the employment of sportsmen and women.

Such funding, which will disappear altogether on 31 December 1999, is currently subject to a ceiling depending on the level of the club and the size of its budget. It varies between 15 and 20%

of the budget for the biggest clubs (football and basketball) and between 25 and 30% for clubs with smaller budgets. As from the 1998-99 season, local authority funding may not exceed 10% of the total budget for all clubs covered by Article 11, before finally disappearing at the end of 1999.

III - SETTLEMENT OF SPORTS DISPUTES

The settlement of sports litigation does not follow the same reasoning. Here it is a question of organising a procedure which is capable of making up for the ill-adaptedness of the French judicial system to sport.

The cumbersomeness of state judicial proceedings (A) has indeed led the sports movement to seek internal solutions for settling sports disputes (B).

A - Difficulties in resolving sports disputes in state courts

The sports movement's reluctance to refer its disputes to the state courts has not prevented a large amount of litigation from developing over the past fifteen years.

However, the fact that sport is subject to the ordinary rules of law and the fact that the federations' acts are regarded as public acts pose problems to sports litigants when it comes to taking their cases to court (1). Once these problems of jurisdiction have been solved, sports litigants then come up against the congestion of the courts and, more generally, the cumbersomeness of the judicial system (2).

1 - Problems of jurisdiction

The large numbers of persons involved and rules applicable create considerable complexity for sports litigants. The jurisdiction of the courts depends on whether the federation concerned wields delegated authority, or is determined according to the subject matter of the dispute.

- The public nature of the unilateral acts of empowered federations (and such federations alone) results in the application of administrative law and thus the jurisdiction of the administrative courts, which is difficult for a layman to accept.

- A dispute between two private persons (a *licence-* holder and his or her federation) is, as a rule, referred to the ordinary courts. It is not really conceivable that it be referred to an "administrative" court. A private individual is thus drawn to the ordinary courts. Moreover, the jurisdiction of these courts is beneficial to him or her, insofar as they apply their own rules. Thus, in the disciplinary field, applicable civil law does not recognise the existence of public authority prerogatives and, accordingly, is more favourable to private individuals.

Jurisdiction is also determined by the subject matter of the dispute, not that this is peculiar to sport.

Sport is a source of conflict in many fields. The large number of fields and thus of applicable rules leads to a multiplicity of courts, which may leave the uninformed litigant at a loss.

Employment disputes are thus dealt with by special employment courts (*Conseil des Prud'hommes*); disputes relating to civil liability by local civil courts (*Tribunal d'Instance, Tribunal de Grande Instance*); and those relating to the correctness of company operations by commercial courts (*Tribunal de Commerce*). Even criminal courts may be involved, in the event of a complaint of assault brought against particularly wild players, as well as a complaint against local councillors who have not taken the necessary steps to ensure the activity is safe.

These considerations make it a complicated matter to refer a case to a court and discourage some sports litigants, who are aware that, besides such problems of jurisdiction, the proceedings which they embark upon may well be very lengthy.

2 - The slowness of the law

Considerations peculiar to sport call for disputes to be settled quickly. The shortness of sporting careers is a case in point. A sportsman or woman who is not selected, unfairly, should be able to obtain amends less frustrating than the mere award of damages. Likewise, as sport follows the rhythm of competitions, which take place season by season, it is vital that a dispute which arises during one cycle is not solved two or three seasons later.

Sports litigants, used to acting swiftly, cannot wait one or even two years for the outcome of their litigation. Only the most determined will see their action through to its end, all the more so for the costs of judicial proceedings being high and their being no guarantee of success.

Such difficulties do not make the state judicial system very attractive and have led to a growth in procedures for settling sports disputes internally, the aim being to make justice more accessible.

B - Conciliation as a response to the search for solutions adapted to the particularity of sport

The aim of this procedure is twofold: speed and effectiveness. To overcome the two major drawbacks of the state judicial system, the sports movement has turned towards its own bodies, which act with greater speed and apply well-adapted rules better understood by sportsmen and women.

Following the penalties inflicted on the sports movement by the administrative courts for disregarding rights of defence, the procedure for resolving disputes became more sophisticated, so as to guarantee the rights of all concerned. The internal settlement of disputes manifests itself above all in the conciliation procedure.

1 - Article 19 of the 1984 Law introducing the conciliation procedure

In order to cope with the slowness of judicial proceedings, a system for resolving disputes has been provided for by law which takes into account the particularity of sport, namely conciliation.

The parties in conflict are invited, or, depending upon the dispute, obliged, jointly to seek an out-of-court solution to their dispute. To help them in this task, a conciliator is put at their disposal, whose role consists in bringing about a convergence of opinions so that a settlement may be achieved.

The conciliator is chosen from a list drawn up by the governing board of the French National Olympic and Sports Committee, the CNOSF, at the suggestion of its executive committee. Those proposed for inclusion on the list are approved beforehand by the CNOSF's legal commission on the basis of their legal and sporting knowledge and independence. The body of conciliators is thus made up of teachers of law, members of the judiciary and lawyers.

The impartiality of these conciliators and their knowledge of sports law help towards a positive outcome to disputes.

It was the 1984 statute which created the possibility of referral to the CNOSF for conciliation purposes in disputes between *licence*-holders, sports clubs and federations. In 1992, this referral was made compulsory for all disputes arising in connection with a decision by an empowered federation "made in connection with the exercising of public authority prerogatives or in applying the federation's articles of association".

This statutory provision (which once again shows the State taking into consideration the particularity of sport) has contributed to the development of the conciliation procedure. The number of cases dealt with by the CNOSF in this context has multiplied, on account of the interest generated by its initial results.

It was the CNOSF itself which adopted the conciliation rules establishing the procedure.

2 - The conciliation procedure

The originality of the procedure lies mainly in the obligation to refer to a private body fulfilling a public service and comprising sports law specialists, prior to referral to a state court. Although a system of compulsory conciliation exists in other areas (divorce, employment law, etc), it is the private nature of the body responsible for reconciling the parties which gives such a procedure its originality.

The objective of the sports movement - which was instrumental in bringing about this statutory provision - is to settle disputes involving empowered federations in the light of rules of law adapted to the organisation and practice of sport. Its aim is for a maximum number of sports disputes to be settled out of court.

It is laid down that the conciliator's proposal must be delivered within two months and even within two days in urgent cases.

The purpose of the conciliation procedure is not to give a final ruling on the dispute (as is the case in arbitration proceedings), but to propose a solution which satisfies both parties in the light of the applicable rules (both state and internal).

The conciliator thus makes proposals to the parties for settling the dispute. The parties may accept or refuse these proposals, which have no legal value. The parties are deemed to have accepted the proposal failing explicit refusal within a month of being notified of the proposal.

Acceptance of the conciliation proposal makes it incumbent upon the parties to perform the obligations arising from the conciliation agreement in good faith.

In the event one of the parties refuses to accept the conciliator's proposal, there is always the possibility of referring the matter to the relevant court within the time limit allowed for bringing litigation under the ordinary rules of law (two months).

When the conciliator acts upon compulsory referral (disputes involving federations enjoying delegated authority), a proposal must be notified to the parties.

When the referral is voluntary, the conciliator "may give the parties notice of a proposed solution, which will be accepted only with the express agreement of the parties".

The CNOSF has dealt with approximately 500 cases (up to the end of 1996).

It has found inadmissible applications (around one hundred) presented by associations not affiliated to the federation with which the dispute arose, those presented against an international federation, a non-empowered federation or a body of the Olympic movement. Likewise, it cannot deal with federation decisions which do not show any use of public authority prerogatives.

Reconciliation was achieved in more than two out of three of the cases examined. Where the proposals were rejected by the parties, the case did not automatically go to court however. Only 22 disputes were brought before the courts. The parties did not wish this to be done in the other disputes. Although the conciliator's proposal did not satisfy the parties, it nevertheless put an end to litigation.

The conciliators have dealt with the interpretation of federation articles of association and the validity of federation elections, as well as affiliation, relegation and selection decisions and disciplinary measures.

The satisfactory nature of the results of the conciliation procedure provides encouragement for it to be developed and extended.

APPENDIX

History of texts applicable to sport in France

Sport has been the subject of state law on various occasions.

The first illustration of state involvement in the sporting field was the 1945 Order (*ordonnance*) relating to the activities of associations, leagues, regional committees and federations. Its purpose was to "lay down some principles of general interest so as to give more cohesion and more life, and greater probity, to French sport, a vital factor in the nation's recovery".

This statutory instrument introduced the system of delegation and, more generally, the dual nature of sport in France.

It was not until 1975, with the Law of 29 October relating to the development of physical education and sport, that parliament intervened to organise relations between the sports movement and the State.

This statute adapted sport to changes in society. Amongst other matters, it replaced the system of delegation with that of authorisation.

The 1975 statute was repealed by the Law of 16 July 1984, relating to the organisation and promotion of physical and sports activities, the subject of the two statutes being the same.

Successive amendments have been made to that of 16 July 1984 to take account of developments in sport.

The principal change was made by the Law of 13 July 1992.

The amended 1984 statute, which is currently still in force, governs the organisation of sport. Further details have been added by implementing provisions, inter alia concerning:

- physical education in schools;

- sports associations and companies:

Orders (*décrets*) of 11 March 1986 setting: thresholds for the formation of a sports company; standard articles of association for sports companies;

Law of 7 December 1987:making it compulsory for certain sports groups to form themselves into companies;

Order (*décret*) of 16 January 1990 determining: the way in which associations referred to as having "strengthened articles" operate;

Order (*décret*) of 18 March 1993:relating to the conditions under which, as an exception, association status may be kept;

- relations between sports companies and the associations from which they originate:

Order (*décret*) of 18 March 1993: relating to the agreement between the association and the sports company;

- federations and the Olympic movement:

Orders (*décrets*) of 13 February 1985: standard articles of association for federations; approval of sports groups and federations; granting and withdrawal of powers (*délégation*);

Order (*décret*) of 3 September 1993: establishes the disciplinary rules of federations;

Order (*décret*) of 27 October 1995:
amending the standard articles of association of sports federations;

- protection of the monopoly of empowered federations:

Order (*décret*) of 18 March 1993: establishes the titles which may be awarded by approved federations fulfilling a public service;

- elite sport:

Order (*décret*) of 31 August 1993: relating to elite sportsmen and women, referees and judges and to the elite sports commission;

- sports facilities:

the State first intervened in this area by way of the so-called Law of 26 May 1941 which creates an obligation to give notice of sports facilities, to which the following additions have been made:

Order (*décret*) of 14 March 1986: lays down how compulsory notice for inventorial purposes is to be given;

Order (*décret*) of 31 August 1993: relating to standards for sports facilities;

- safety of sports facilities and at sports events:

Order (*décret*) of 18 March 1993: obligation to have insurance cover in sports activities;

Order (*décret*) of 27 March 1993: relating to events requiring special safety guarantees;

Order (*décret*) of 27 March 1993: relating to approval of sports venues;

Law of 6 December 1993: relating to the fight against violence in sports venues;

Order (*arrêté*) of 27 May 1994: setting thresholds for application of the approval procedure (30,000 people for open-air and 8,000 for covered sports venues);

Law of 21 January 1995: relating to safety at sports events and compulsory policing;

Order (*décret*) of 31 May 1997: relating to the setting up of policing by the organisers of sports events;

Order (*arrêté*) of 4 June 1996: relating to goal safety;

Order (*arrêté*) of 11 June 1996: relating to the procedure for approving sports venues;

- sports training and professions:

Order (*décret*) of 10 July 1985: establishing the status of sports instructors (*Professeurs de Sport*);

Order (*arrêté*) of 4 October 1985: defining courses leading to the competitive examination for the recruitment of sports instructors (*Professeurs de Sport*);

Order (*décret*) of 25 November 1996: allowing European providers of sports services to become established in France;

Order (*décret*) of 4 April 1997: setting equivalences between European Community and French sports qualifications;

Order (*décret*) of 23 May 1997: relating to the organisation of the State sports instcuctor's certificate and the conditions under which it is prepared and awarded;

- use of the pecuniary rights held by sports companies:

Order (*décret*) of 22 January 1993: transfer of the pecuniary rights held by sports companies;

- the profession of intermediary:

Order (*décret*) of 15 January 1993: regulating the conditions under which the profession of agent is practised;

Order (*arrêté*) of 17 March 1993: relating to giving notice of activity as a sports agent;

Order (*décret*) of 18 March 1993: setting out positions incompatible with that of agent;

- financial relations between local authorities and the sports movement:

Law of 8 August 1994: relating to local authority funding of "professional" clubs;

Order (*décret*) of 24 January 1996: setting the ceilings for grants to sports clubs;

- the conciliation procedure;

- television broadcasting rights;

- paid teaching of sport:

Order (*décret*) of 31 August 1993: relating to monitoring of paid teaching of sport.

Legislation was also introduced in a special area of sport with the Law of 28 June 1989 on the prevention and suppression of the use of performance-enhancing substances. This statute is not an amendment to the 1984 statute. It does however amend the Law of 1 June 1965 relating to the fight against the use of performance- enhancing substances.

It is to be noted that France has signed the Council of Europe's Anti-Doping Convention of 16 November 1989.

Various provisions have been introduced as part of the fight against the use of performance-enhancing substances:

Order (*décret*) of 29 May 1990: creation of the National Anti-Doping Commission (*Commission nationale de lutte contre le dopage*);

Order (*décret*) of 30 August 1991: setting up of anti-doping checks;

Order (*décret*) of 1 April 1992: compulsory anti-doping provisions to be included in the regulations of federations with delegated authority;

Order (*arrêté*) of 7 October 1994: lists of performance-enhancing substances and methods;

Order (*arrêté*) of 21 November 1996: lists of performance-enhancing substances and methods.

Other laws which do not solely cover sport contain provisions which may affect sport.

- Law of 1 July 1901 relating to the contract of association applying to sports associations.

- Decentralisation Law of 2 March 1982 giving general powers to regions and departments. This statute is the legal basis for local authority involvement in sport.

Law of 7 January 1983 giving regions powers for training initiatives; it was amended by the Law of 20 December 1993.

- Law of 10 January 1991 prohibiting advertising and sponsorship to promote alcoholic drinks. This statute also prohibits the sale of alcoholic drinks within places where physical and sporting activities take place.

To which the following have been added:

Order (*décret*) of 22 August 1991: making an exception for hotels which have their own facilities;

Order (*décret*) of 26 August 1992: relating to temporary exceptions which may be granted by prefects (*préfets*) for the sale of drinks in sports venues .

- Law of 27 January 1993 (Art. 71) regulating tobacco advertising. This statute also has an impact on sport inasmuch as it includes sport as an area in which tobacco advertising is banned.

- Article 5 of the Highway Code (*Code de la Route*), which lays down heavy fines for organisers of car races which have not been given government authorisation.

Order (*décret*) of 3 August 1992: relating to government authorisation for organising car races on the public highway;

Order (*décret*) of 23 December 1958: relating to the regulation of car races which do not take place on the public highway;

Order (*arrêté*) of 3 November 1976: laying down safety rules applicable to circuits on the public highway on which car races take place;

Order (*arrêté*) of 18 August 1991: relating to the organisation of first aid during car races on high-speed circuits;

Order (*décret*) of 26 August 1992: relating to safety in sports competitions which take place on the public highway;

Order (*décret*) of 18 October 1955: lays down the rules applicable in connection with sports events organised on roads open to traffic;

Order (*arrêté*) of 1 December 1959: generally regulating sports competitions on the public highway.

- Finance Law of 29 December 1978, Article 56 of which (amended by the Law of 30 December 1985) provides for the creation of the National Sports Development Fund - FNDS (*Fonds National de Développement du Sport*).

Order (*arrêté*) of 13 March 1979: setting up the Board (*Conseil*) of the FNDS;

Order (*arrêté*) of 20 February 1980: change in the embership of the mass sports section;

Order (*décret*) of 4 February 1987: relating to regional management of the FNDS.

- Articles L. 121-1-1 and D. 121-2 as well as L. 122-3-8 of the Employment Code relating to fixed-term contracts.

- Articles L. 311-2 and L. 311-3 of the Social Security Code defining the basis for liability.

- Law of 24 July 1966 relating to the running of commercial companies, which is partially applicable to sports companies (*sociétés anonymes*).

- Law of 25 January 1985 dealing with insolvency proceedings relating to businesses.

- Law of 7 July 1983 relating to mixed economy companies, applicable in certain respects to local mixed economy sports companies.

- Law of 6 January 1978 relating to information technology, data files and liberties.

Order (*arrêté*) of 12 January 1983: giving authorisation for a "High Level Sport" file to be set up;

Order (*arrêté*) of 14 September 1995: giving authorisation for a file covering sports establishments and instructors to be set up;

Order (*arrêté*) of 10 April 1996: giving authorisation for an "Anti-Doping" file to be set up.

- Articles 1147, 1382, 1383 and 1384 of the Civil Code relating to contractual and tortious liability.

- Law of 5 July 1985 for the betterment of road accident victims.

- Order (*ordonnance*) of 1 December 1986 relating to freedom of prices and competition.

- Article 207 of the Tax Code which provides for exemption from corporation tax for events by non-profit making associations which are of undoubted public interest.

Article 261 which exempts from VAT instruction and lessons pertaining to (...) sport, as well as certain operations performed by philanthropic bodies, which include sports associations.

Article 1447 relating to business tax (*taxe professionnelle*), which must be paid by professional clubs.

Article 1559 establishing entertainment tax, to which organisers of sports events are liable.

Texts drawn up by the sports movement:

Elite Sportspersons' Charter dated 3 March 1993.
Conciliation Rules adopted 6 July 1993.
Sports Arbitration Code dated 22 November 1994.
Olympic Charter dated 18 July 1996.

GEORGIA

SPORT LAW OF GEORGIA

President of Georgia, Eduard SHEVARDNADZE
Tbilisi, September 20, 1996

This document represents unofficial translation from the original copy

Sport law of Georgia defines general legitimate, social, economic and organisational principles of sport activity on the territory of Georgia.

Sport in Georgia is considered as the most important national affair promoting its development.

In Georgia, sport is based on common to all mankind humanity and cultural values, historic experience, centuries-old traditions of Georgian nation.

Chapter one: Common Regulations

Article 1: Georgian legislation in the field of sport, goals and tasks.

1. Georgian legislation in the field of sport is based on the Constitutions of Georgia, autonomous republics of Abkhazia and Adjaria as well as present Law, other legislative acts and international agreements.

2. Legislation in Georgia in the field of sport ensures nation's fitness, reinforcement of citizens' health, patriotism, education with inspiration of humanism, preparation for labour and country defence, extension of human life, achievement high sport performance.

3. Goals of Georgian legislation in the field of sport:
   a) Nation's physical recreation
   b) Formation of spiritually and physically harmoniously developed person
   c) Insurance and defence of accomplishment of constitutional rights for Georgian citizens involvement in the field of sport
   d) Defining the competence of management of central and local state authorities in the sport field
   e) Establishing legislation guarantees for free operation of state, public and other non-state sport organisations
   f) Defining responsibilities of physical and juridical persons in the field of sport and regulating relationships between them
   g) Implementation of scientific and technical achievements in the field of sport.

Article 2: Fundamental principles of state politics in the field of sport

a) Ensuring Sport for All and accessibility
b) Observing sport traditions, their extension, continuity of inheritance between nations, sport development
c) Democratic character of management
d) Reinforcement of material and technical base, development of sport industry
e) Appreciation of general values

Article 3: State guarantees of Georgian citizens in the field of sport

1. Right to people's training and activity in sport is ensured by the state through creation of corresponding social-economic conditions

2. The state provides with respective aid and privileges pensioners with sport practice, orphans, disadvantaged families and disabled persons

3. The state ensures development of mostly national sports at villages producing necessary conditions for involvement of rural population in sport paying particular attention to the villages of alpine regions

4. Georgian citizen (athlete, coach, referee, other sport officials) is entitled to work in the amateur as well as professional sports in Georgia and abroad

5. Citizen of other country or person having no citizenship accomplishes sport activity in Georgia on the basis of agreement or contract with the rule established by legislation

6. Sport activity of using sport achievements for purposes incompatible with law is strictly forbidden.

Chapter 2: State bodies of Sport Administration

Article 4: State Sport Administration

1. Major directions and legislative relationships of state policy in the field of sport is defined and controlled by the Georgian Parliament
2. The State governs field of sport through Georgian State Sport Department. The authority of the latter is defined by the present Law as well as Acts adopted by President of Georgia and regulation of State Sport Department
3. The Governments of Autonomous Republics of Abkhazia, Adjaria and regional and local state administration bodies establish in their structures corresponding sectors for sport administration.

Article 5: References of Georgian State Sport Department

References of Georgian State Sport Department

a) To work out and accomplish major directions for the development of respective field,
b) To work out state programs for nations' recreation and development of sport,
c) To determine privileged sports,
d) To encourage establishment of financial-technical base and its further development,
e) To promote establishment of non state and public structures,
f) To licence new sports,
g) To coordinate preparation, allocation and re-arrangement of staff, certification of personnel and determination of their professional skills,
h) Scientific and methodic ensurance of sport system, organising publication of scientific, educational and popular sport literature
i) To work out state norms of sport financing,
j) To secure encouragement of athletes, specialists and other sport officials, their presentation for obtaining state prizes and awards

k) To cease functions of the authorities of national sport federations until convocation of extraordinary Assembly in case non-accomplishment of state policy general principles in the field of sport and in case of rough abolishment of legislation with registration body.

Article 6: Sport Administration in the Autonomous Republics of Abkhazia and Adjaria

Sport Administration in the autonomous Republics of Abkhazia and Adjaria is implemented through Constitution of Georgia, Constitutions of autonomous Republics of Abkhazia and Adjaria as well as present Law, other legislative acts and international agreements.

Article 7: Competence of self-government bodies in the field of Sport

Sport field locally is governed by local self-government bodies expect those issues belonging to the scope of Georgian State Sport Department, National Committee and National Sport Federations.

Chapter 3: Public and Other Non State Sport Institutions

Article 8: Public and other non-state sport institutions

1. Public and other non-state sport institutions includes Sport Federation, Association, Club and other unification aiming at sport development
2. The State promotes development of public and other non-state sport organisations' activity and involves them in sport administration
3. State Sport Department and its bodies can provide public and other non-state sport organisations with certain responsibilities within the scope of their competence and they control accomplishment of the said responsibilities.
4. Public and other non-state sport organisations guide in their activities with present Law and other normative acts operating in the field of sport.

Article 9: Georgian National Olympic Committee (GNOC)

1. Georgian National Olympic Committee (GNOC) is an independent public organisation which coordinates the Olympic Movement in Georgian. GNOC is a juridical person.
2. GNOC guides with Georgian legislation, present Law, the Olympic Charter and own Statutes.
3. Within the International Olympic Committee and at the events organised by the IOC including Olympic Games, Georgia is represented only by National Olympic Committee as the IOC representative in Georgia.
4. GNOC has own Emblem and it's the only institution who has right for using this Emblem.
5. GNOC collaborates with Georgian State Sport Department and National Federations on the basis of bilateral agreement.
6. GNOC provides preparation and participation of the unified teams in the Olympic Games.

Article 10: Georgian National Sport Federation

1. National Sport Federation of Georgia represents public unification of citizens which governs development of respective sports in Georgia, accomplishing its activities according to the present Law, Laws of Georgia, own Statutes and Statutes of the International Sport Federations. National Sport Federation of Georgia is the only leading body in the respective sports and takes responsibility for its development.

2. National Sport Federation of Georgia represents respective sports in the country as well as abroad, sharing principles of the Olympic Movement.
3. Status of Georgian National Sport Federation is awarded to the unification whose fundamental documents satisfy requirements of Georgian legislation and corresponding International Federation.
4. National Sport Federation of Georgia is a juridical person.
5. Authority of Georgian National Sport Federation within the scope of its reference extends on the whole territory of Georgia.
6. Georgian National Sport Federation (GNSF) accomplishes state order and cooperates with State Sport Department on the basis of agreement.
7. GNSF replenishes national unified team, submits it to the international organisations and sport competitions.
8. GNSF is entitled to accomplish the activity not restricted by the legislation in force. Federation encourages within the scope of its reference establishment and operation of sport societies, associations, clubs, schools and other organisations.

Article 11: Sport Club

1. Sport Club carries out its activity according to the legislation in force by present Law and own Statutes.
2. Sport Club represents a juridical person.
3. Status of Sport Club is awarded to the organisation whose fundamental documents satisfy requirements of Georgian legislation and corresponding National Sport Federations.
4. Authorities of sport club are entitled with the exclusive right to name their members for transfer with the consent of National Sport Federation concerned.

Chapter 4: Mass Sport

Article 12: Sport at Underschool and Educational Institutions.

1. Healthcare and reinforcement, physical training and improvement, carrying out sound mode of living are major tasks at all underschool and educational institutions.
2. On the basis of state educational programs and physical training norms educational institutions determines independently forms, methods and duration (at least 4 hours per week) of physical trainings taking into account local conditions and pupils' interests.
3. For physically sick persons training takes place within the scopes of rehabilitation.
4. At every educational institution despite its profile and form of property, sport is included in the joint educational programme approved by Georgian Ministry of Education with the agreement of State Sport Department.

Article 13: Fitness and Sport Institutions Outside of School

1. Sport schools, clubs, sections and other outside school institutions operating on state, cooperational, public or other principles, are responsible for attracting children and youth and their involvement in fitness and sport trainings.
2. Co-ordination of activities at outside school fitness and sport organisations is accomplished by respective local bodies of State Sport Department. Local self-governing bodies are responsible for securing establishment and functioning of outside school fitness and sport institutions.

Article 14: Sport at the Places of Employment

Despite of the form of property, the administration of ventures, institutions, organisations and other fields of employment, is responsible to establish corresponding conditions for their employees with the purpose of accomplishing their rights in the field of sport, taking into account prophylactic, rehabilitation courses, mass-sport and fitness events.

Article 15: Sport for Disabled Persons

1. Disabled persons' sport training is part of their rehabilitation and social employment adaptation.
2. Respective bodies of sport, healthcare, education, population's social defence as well as disabled persons organisations are responsible to organise in the continuous system of disabled persons' rehabilitation sport studies, arrange preparation of staff, provide methodical supplement and medical examination.
3. Executive bodies of state authorities, regional and local administrative bodies, clubs and centres provide disabled persons with special equipment promoting their participation in sport competitions.
4. Disabled persons' fitness and sport events are financed. The sources for construction of their sport bases are allocated from budgets of state and local self-governing bodies and private sector.

Article 16: Sport training of military officials, personal composition of special service at the State Defence and Ministries of Internal Affairs and Security.

1. The contents of sport training for military officials, personal composition of special service at the state defence and Ministries of Internal Affairs and Security is determined by respective bodies with the agreement of State Sport Department.
2. Heads of Military Units as well as authorities of special service subdivisions at the Ministry of Internal Affairs, Ministry of Security and State Defence are responsible to establish necessary conditions for holding studying courses in military sports and providing participation of special service personal composition from the above mentioned authorities in such events.

Article 17: Participation of health care organisations and institutions in the development of sport.

Organisations and institutions of healthcare:

a) Use sport within the scopes of their reference as means for physical rehabilitation and disease prophylaxis,
b) provide medical control for members of sport section and medical service for Georgian National and other teams on the basis of agreement,
c) organise and accomplish preparation of medical specialists and improvement of their qualification in the major issues of sport medicine and rehabilitation which is used in the treatment process and prophylaxis,
d) establish sport medicine and rehabilitation centres (dispensaries), diagnostic-consulting offices and cabinets providing population with respective service and necessary medical equipment and apparatus,
e) organise sport training and competitions in ecologically and hygienically fresh air.

Article 18: Sport Activity in Citizens' of certain categories

The administration of colonies, prisons and other institutions of imprisonment provide control on health conditions of their residents, holding necessary sport-fitness events, providing sport studying process with respective equipment according to the internal regulations adopted in the above institutions.

Chapter 5: High Performance Sport

Article 19: High Performance Sport Preparing High Qualified Athletes

1. High performance sport is the field-promoting athlete to reveal his maximum abilities and achieve distinguished results. The state provides him with all necessary conditions in this regard.
2. With the purpose of preparing high-qualified athlete specialised institutions are established whose structure and status are determined by State Sport Department and National Sport Federation concerned.
3. The state order with the purpose of preparing high qualified is registered through agreements signed with the National Sport Federation concerned or other sport organisations.
4. Preparation of athletes included in the Georgian unified team is organised with the sources allocated from budget on the basis of request of State Sport Department.

Article 20: Georgian National Unified Teams

1. Georgian National Unified Teams are prepared and replenished by National Sport Federations.
2. Georgian National Unified Team member may take part in any sport competition with the consent of National Sport Federation in the respective sports.
3. Citizen of Georgia is not entitled to participate in the competition in the composition of other country's unified team.

Citizen of foreign country or person having no citizenship cannot compete on behalf of Georgian Unified Team.

Article 21: Athlete, professional athlete and professional activity in sport

1. Athlete is a person who goes in for sport and participates in competition.
2. Athlete for whom sport is a major source of income is considered professional.
3. "Athlete" is a profession.
4. Professional activities of an athlete, coach, judge and other specialists (training and participation in competitions), which is major source of their income is accomplished according to the labour laws.
5. Persons employed in sport as a rule, work on the basis of individual labour agreement.
6. Signing the contract with an athlete, establishing some other form of agreement determining conditions for sport activity and participation in competitions on the professional basis is carried out with Georgian legislature, as well as statutes, regulations and other documents of international sport organisations.
7. Labour agreement signed by professional athlete should include health and life insurance conditions together with terms on sport activity and participation in competitions.
8. Professional Sport League (Association, club, etc) and other professional sport organisation is established and operates according to the legislation.

Article 22: Social Defence of Athlete and Sport Specialists

1. State and sport organisation concerned provides social defence of athlete, sport specialists and other sport officials. They are considered in corresponding legislation.
2. Professional athlete is awarded the right of pension with the privileged conditions and amount determined in legislation for employees with hard labour conditions.
3. An athlete who go injury, professional disease or became disabled during the competition, training process or other sport event takes advantage of legislation on social defence.

Chapter 6: Financial Technical and Staff Insurance of Sport – Sport Stimulation

Article 23: Sport Financing

1. State promotes and cares on sport development and with this purpose it considers budget financing.
2. Sources allocated for sport development are specified in state and local budgets with separate article.
3. According to the proposals of respective public sport organisations state financial sources in the field of sport are allocated by State Sport Department and its local bodies.
4. Sport financing also includes:
    a) Donations from state, private and public organisations, institutions and certain persons.
    b) Profit gained from private sport, economic-commercial, advertisement, intermediary activities.
    c) Sources obtained from sponsors and other financial assistance.

5. Sources obtained from non budget means do not effect amount of state sport budget assignations.
6. Sources allocated from the state budget for sport development is distributed among ministries and organisations by Georgian Ministry of Finance with recommendation of State Sport Department.
7. The state allocates from budget special target sources for preparing National Unified Teams for participation of Georgian sport delegations in the Olympic Games, World and European Championships, Cup Games, World University Games and other International competitions and for awarding winners and prize-winners of the above events.
8. Using these sport budget target sources and non-budget incomes without the determined purpose is strictly forbidden. They should be spent only for sport development.
9. The state promotes sport development through extension of sport economic-technical base as well as through respective financing, grants, moral and financial encouragement of athletes and specialists of this field.

Article 24: Economic-Technical Ensurance of Sport Field

1. Economic technical base of sport field comprises all kinds of sport and sport recreational structures, sport equipment and other property assigned for sport and sport recreational activity.
2. Sport base is the area which aims at athletes training and population's fitness or which satisfies requirements of holding sport competitions.
3. The rule for allocating the land with sport bases is considered by respective legislation.
4. It is forbidden:
    - to change the function of sport base without preliminary agreement obtained from Sport Department and local self-governing bodies,

- to start construction or reconstruction of underschool and school buildings without consideration of sport object,
- to liquidate sport object or change its profile before submitting for exploitation substitutional and equivalent object.

5. Georgian State Sport Department controls effective utilisation of state sport buildings.
6. The privilege right to train on Georgian state sport bases is awarded to Georgian national unified team members.

Article 25: Preparation of specialists in the sport field and staff maintenance.

1. The state provides for the sport field preparation, additional training and improving qualification of staff.
2. Specialists of sport field are prepared by educational institutions. The goal of these institutions should be development of mass and high performance sport as well as its prophylactic and medical profile.
3. State sport, educational and health care bodies adopt requirements for sport profile specialists. Preparation and additional training of specialists including those working with disabled persons is the responsibility of educational institutions accredited with the established rule.
4. Only citizens with special education and those with the diploma of accredited institute are entitled to work in sport field as a teacher, coach and carry out training-recreational activities.
5. For working in the sport field as a specialist, athlete takes obligatory certification according to the rule established by Georgian State Sport Department and Sport Federation concerned.
6. Together with the Ministries of Education and Health Care as well as Institutes of Georgian Academy of Sciences, State Sport Department carries out scientific subsistence of state programme for sport development through involvement of leading scientific centres, high educational institutions and scientific-research sport institutions.

Article 26: Sport title, award and sport symbol

1. Distinctive element in sport confirms athlete's and judge's qualification. Medal and breastplate specifies contribution of an athlete, coach and other sport specialists.
2. Georgian State Sport Department approves honourable titles in sport and defines the list of sport awards for winners and record holders of International and National Championships.
3. For special contribution in the field of sport and for high sport achievements athlete, coach and other persons are submitted by Georgian State Sport Department for obtaining state prizes and awards.
4. The rule for using symbols is determined by legislations.

Article 27: Prohibited acts in sport

In the process of sport activities and with the purpose of athlete's high performance it is prohibited to use such methods and stimulating acts which are forbidden by Georgian legislation, regulations of national Sport Federations and International Sport Organisations and other legal acts. Person who promotes deliberately use of such means will take responsibility according to Georgian legislation.

Article 28: Responsibility for abolishing Sport Law of Georgia

Abolishment of requirements of present Law causes calling to account according to Georgian legislation.

GERMANY

NATIONAL LEGISLATION AND SPORT IN GERMANY

Collection of national legislation in the field of sport for the Council of Europe.

By Mrs Andrea SCHUMACHER, Bundesministerium des Innern
October 1997

Introduction

In Germany, sport is of enormous social importance. This is confirmed by the huge number of members, about 25 million persons in about 80 000 sports clubs.

In order to understand the structure of sport in Germany, one must bear in mind two things: the federal system of Germany and the autonomy of sport. Therefore, the distinction is made between the public sport administration (federal government, Länder and local autorities) and the self-administration of sport.

Public sport administration of the federal Government

1) Structure

The Basic Law (constitution) does not provide for an express responsibility of the federal government for the promotion of sport. According to Article 30 of the Basic Law, which governs the powers of the Federation and the Länder, the exercise of governmental powers and the discharge of governmental functions is in incumbent on the Länder in as far as the Basic Law does not provide for or allow otherwise. This is why the Federation needs special provisions in the Basic Law as a legitimation ; to the extent that these do not exist, the promotion of sport is the responsibility of the Länder. However, the Basic Law contains sectoral responsibilities of the federation for the field of sport, which do not exclusively relate to sport:

- Article 32 of the Basic Law – conduct of relations with other states,
- Article 81 a of the Basic Law – development of universities and improvement of the regional economic structure,
- Article 91 b of the Basic Law – co-operation in educational planning and the promotion of research,
- Article 87 of the Basic Law –sport organised for the personnel of authorities of direct federal administration,
- Article 87 a,b of the Basic Law – setting up organisational sub-structures for sport in the federal armed forces,
- Article 104 a of the Basic Law – financial assistance in connection with the town and country planning act.

The major part of the competence of the Federation to promote top-level sport derives from competences of the Federation which are not embodied in any written statutes, namely in the followings fields:

- general representation of the state (for instance at Olympic Games, Paralympics, World and European championships),
- international sports relations (including development aid in the field of sport),
- promotion of measures of non-governmental central sports organisations which are of importance for Germany as a whole and which cannot be effectively supported by one

federal state alone (e.g. German Sports Federation (DSB), NOC, national federations of specific sports),

- tasks within the purview of federal ministries (e.g. research projects in the field of sport for the handicapped or the construction of sports facilities).

There is no legal basis in the Basic Law obliging the Federation to promote the development of sport. This is not necessary, though, because the Federal Government within the framework of the distribution of competences is authorised to fulfil tasks without a specific authorisation by the constitution, all the more so because the promotion of sport does not represent an interference with the Basic Law and it is generally agreed that no formal legislation is required for this. The fact that there is no legislation governing the promotion of sport gives the Federation the advantage of flexibility as one can adjust to the development of sport gives the Federation the advantage of flexibility as one can adjust to the development of sport without having to amend laws, for example the emergence of new sports and the resulting redistribution of the funds available.

However, sport is not completely free from legal regulation. There are numerous laws which also concern sport, for instance police law, environmental law, education law, construction law, taw law, law of contract and damages as well as penal law (see chapter V).

When it comes to promoting sport, the federal government proceeds from three important principles:

1) Autonomy of sport

The organisations in the field of sport provide for their own affairs in their own responsibility and take decisions independently.

2) Subsidiarity of the promotion of sport

The state only provides funds if sport itself does not have sufficient means.

3) Partnership and Co-operation

Against the background of the autonomy of sport, sport promotion by the government prerequisites co-operation in partnership of the state and the sports sector, because only harmonised and agreed activities ensure success. Therefore the two sides involved work out joint plans for the promotion of sport, and the sports sector is involved when it comes to dealing with sport in the framework of the Council of Europe, UNESCO or the European Union.

2) Political framework

The Federal Ministry of the Interior promotes top-level sport, top-level sport of the handicapped, sports medicine and sports science and the construction of sports facilities for competitive sport, international sports affairs and sport in the Federal Border Police. The Federal Institute for Sports Science (BISp) is a subordinate agency of the Federal Ministry of the Interior.

Within the federal government the Federal Ministry of the Interior co-ordinates all federal matters related to sport.

In addition to the Federal Ministry of the Interior, other departments are also responsible for sport in the context of their general jurisdiction:

- Foreign Office
  Promotion of sport in the framework of foreign cultural policy

- Federal Ministry of Finance
  Tax-related questions of sport, sport in the customs administration

- Federal Ministry of Labour and Social Affairs
  Promotion of sport for the disabled and the handicapped in the framework of rehabilitation, sport in the working life

- Federal Ministry of Defence
  Sport in the Federal Armed Forces

- Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
  Promotion and models for sport for senior citizens, promotion of out-of-school for young people (federal youth plan), German Sports Youth, school sports competitions for young people, sport in the framework of the German-French and German-Polish youth exchange

- Federal Ministry for Health
  Sport in the framework of preventive health care

- Federal Ministry for Transport
  Promotion of sport in the purview of the Deutsche Bundesbahn, promotion of sport in sports clubs of railways staff

- Federal Ministry for the Environment, Nature Conservation and Reactor Safety
  Questions relating to sport and the environment as well as funding of projects in the aforementioned area

- Federal Ministry for Post and Telecommunications
  Promotion of sport in the purview of the German postal service, promotion of sports clubs of staff members

- Federal Ministry for Regional Planning, Building and Urban Development
  Sports-related questions in the building law

- Federal Ministry for Education and Science, Research and Technology
  Sport in the framework of the education system, sport at academies and universities

- Federal Ministry for Economic Co-operation and Development
  Promotion of sport in the framework of development policy.

3. Funding

The state is the main sponsor of sport. The funds which the state makes available at the level of the local authorities, the Länder and the Federation are considerably higher than those coming from the economic sector and the media. This funding does not only consists in direct allocations from public budgets, but also indirectly, for instance by the exemption of the non-profit making sports clubs from taxation (sections 52, 55 para 1, sentence 1, 58 n° 9 of the Fiscal Code). Non-profit making corporations are on principle exempt from corporation tax, trade tax, real property tax and inheritance tax while with regard to value added tax they are subject to a reduced tax rate of 7 per cent. Donations to non-profit making clubs are tax-deductible for the donor up to a specified ceiling.

When allocating funds the state recognises the principle of the autonomy of sport and its ability to govern its own affairs. Sometimes the state makes its contributions contingent upon conditions which are derived from general legislation, especially budget law. Furthermore sport and the state have agreed that all funding is effected under the provision that the sports sector fights doping with determination.

Against this background allocations are subject to audits as to their intended use. Such auditing is indispensable under the law in force.

For a long time patronage was the essential form of support by the economic sector for the field of sport. Undoubtedly money and donations in kind from the economic sector now as before are an important source of funding for the federations, clubs and the foundation "Deutsche Sporthilfe". But in the meantime sponsorship, which in contrast to patronage is based on contractual agreements on the commitments of both sides, has become the major form of relations between the sector of sport and the economy. The federal government fully advocates the efforts by the sports sector to improve its financial situation by income from the economic sector.

However, owing to the connections between sponsoring and the media the promotion of sport by the economic sector tends to concentrate on relatively few sports which are of special attraction for spectators and the media.

III. Public sports administrations of the Länder and local authorities

(Report to be forwarded soon)

IV. Autonomous administration of sport

1.1 Structure of Deutscher Sportbund (DSB) – German Sports Federation

The DSB is an umbrella organisation for the Germany gymnastics and sports movement. It is entered in the Register of Associations located in Berlin. The purpose of DSB is the co-ordination of any necessary joint measures, to take care of the interests of its member organisations vis-à-vis governmental institutions and to represent it in the public and to solve problems in this context. The sport confederations of the Länder, national sports federations and national sports federations with specific tasks, federations for science and education as well as supporting bodies count among the members of DSB. Within these organisational structures, members are autonomous. DSB acknowledges the organisational, financial and technical autonomy of its member organisations.

1.2 Legal norms governing the federations

In the pyramid of norms applicable to the federations there is the body of general law, i.e. the basic norm of Article 9 para 1 of the Basic Law as well as the provisions of Sections 21 et seqq. of the Civil Code. Various legal provisions at various levels (for instance in the framework of tax law or the lands acts to promote sport) supplement this body of law. Within the sector of sport, the supreme body of regulations both for DSB and any other registered club is their statutes: These are supplemented by various sub-ordinate regulations. In the field of doping, there are no uniform requirements neither on the level of state law nor at the supreme level of the federations. Rather is it in the jurisdiction of every federation to include anti-doping regulations in their statutes, which may then be supplemented by legal provisions and procedures. The so-called anti-doping-framework directives are not generally applicable to athletes charged with doping offences, but only where the provisions have been incorporated into body of law of the respective federation of the various disciplines.

1.3 Funding

The funds made available to DSB are exclusively earmarked for specific projects. The ordinary budget of the DSB is primary made up of income from members' fees, income from a lottery (Glücksspirale), donations and revenue of companies owned by the DSB. The field of top-level sport, the DSB also receives earmarked funds from the government, but is not authorised to use this money for purposes other than the earmarked ones.

2.1 Structure of the National Olympic Committee (NOC)

According to the rules of the IOC the NOC is an independent and autonomous organisation within the autonomous administration of DSB. Its main tasks include the dissemination of the Olympic idea in all its forms in Germany, the preparation of the participation of German teams in the Olympic Games and the implementation of the functions entrusted to it by the IOC.

From the purposes laid down in the statutes the NOC derives its tasks, with the priorities being on the following areas:

- Co-operation with the IOC
- Promotion of the Olympic movement
- Olympic education
- Participation in the regulations governing participation in the Olympic Games
- Coaching German Olympic athletes
- Protection of the Olympic symbols
- Co-operation with the NOC's of other countries
- Maintenance of general contacts

The NOC is a registered association with its own legal capacity under the Law Relating to Associations; its organisational structures is as follows:

Membership of the NOC: One representative of each German federation (Olympic disciplines). These members are appointed in writing by the respective federation, they can be recalled at any time. Due to their function the German members of the IOC and the president of the DSB are members of the NOC during their terms of office, furthermore the honorary members and the members of the Council of Elders are members of the NOC. In addition, renowned personalities who have done great services to the Olympic movement may be elected as personal members of the NOC by the general assembly for a term of four years.

The general assembly of all NOC members is the supreme body of the NOC. It meets every four yours in the calendar year following the Olympic summer games. In particular, it notes the reports of the presidency of its responsibilities, organises the elections and takes decision on all important issues, above all the work plan and the budget.

In all other years there is an assembly of members. Apart from the election of the presidency and the personal members, which takes place every four years only, it has the same regulatory tasks as the general assembly. The representatives of the Olympic federations in the various disciplines have three votes at the general assemblies/assemblies of members while all other members have one vote. This is to ensure that the representatives of the sports federations have a qualified authority.

The presidency carries out the functions of the NOC pursuant to the decisions taken by the general assembly or the assembly of members. It has a headquarter headed by a general secretary who has a seat in an advisory function in all bodies and committees. Members of the presidency vested with a seat and a vote are the president, three vice-presidents (two for summer sports, one for winter sports) a treasurer, up to four members, IOC members, the honorary president, honorary members (in so far as they have been elected before 11 June 1982) as well as the president of DSB, two representatives each of the German Olympic Society (DOG) and the foundation Deutsche Sporthilfe (German Sport Aid) by virtue by their office. The presidency may set up commissions or specific committees for counselling purposes.

A managing presidency consisting of the president, three vice-presidents, the treasurer, the German members of the IOC, the president of DSB (or his deputy), the chairman of the foundation Deutsche Sporthilfe (or his deputy) as well as the general secretary who attends in an advisory capacity only, manage the day-to-day business of the presidency in between the meetings and in particular prepares the meetings and assemblies.

2.2 Funding

The NOC is a registered association and exclusively and directly serves non-profit making purposes. The NOC finances its work by means of

- membership fees,
- revenue from the "Glücksspirale" lottery,
- economic measures, especially the granting of licences of the use of rights.

These inter alia include the issuance of coins for example the Olympic Organisation committee, and licence contracts on the use of the emblem of the five Olympic rings.

The Federal Government makes available funds for special tasks of the NOC on the basis of the subsidiary principle in the framework of the so-called project funding, for example for measures of promoting sport in development countries and the sending of German participants to the Olympic Games.

2.3 Important regulations

Reference is made to Article 9 para 1 of the Basic Law, the Law Governing Associations of the Civil Code, the Tax Code (regarding recognition as non-profit-making) trade mark law.

2.4 Legislation under way

For the time being, new legislation is not being prepared.

V. Legal provisions

There is no specific law exclusively dealing with issues of sport. This does not mean, however, that sport is free from any legal provisions. Provisions applicable to the field of sport are to be fund throughout the national legislation without specific reference to sport, though.

In view of the multitude of legal provisions, only a few examples can be given here:

1) Civil Law

The law on damages, for instance in case of bodily harm or damage of property. They provide for claims for damages on a contractual basis and depending on the type of offence. In the field of sport, the athletes' liability for third party damage plays an important role.

2) Neighbourhood law

This concerns cases in which a neighbour (owner or tenant) of a sports facility considers the emissions emanating from this facility to be a nuisance and files an application for an injunction (especially in case of noise pollution).

3) Penal Law

Aliens law in the case of naturalisation of foreign sportsmen

Building law
Construction of sports facilities in the framework of the building and the planning law

Environmental law
Reconciliation of the interests of sport and nature and landscape protection

Police law
This mainly concerns security problems on the occasion of sports events.

In addition to the national law adopted by the sports bodies themselves. On the basis of the autonomy of sport embodied in Article 9 para 1 of the Basic law the sports federation and clubs adopt their own rules. In this connection the question arises again and again, to what extent the rules set and decisions taken by the federation may be subject to judicial review. Against the background of the professionalisation of sport, decisions of this kind may constitute an interference with the legal right of the athletes (regarding assets and personal rights) which may have consequences for their professional life or their financial situation. Up to now, sport, on the basis of its guaranteed autonomy, with free to solve problems on its own in the framework of the generally applicable law. It is not always easy to decide where the state may interfere and where the regulations adopted by the federations are sufficient. The federations may impose sanctions such as fines and suspensions.

The most widely known case in Germany was the "Krabbe case". Katrin Krabbe, world champion in 1991, was found to have used a medicine containing Clenbuterol. At that time, however, this substance was not yet on the doping list so that the German Track and Field Federation (DLV) suspended her for 12 months because of abuse of medicaments. The International Athletics Federation IAAF extended this suspension by two years. The athlete took legal action against this before a German court for having the ban lifted and for damages for missed or not realised profit from sponsoring contracts. The problematic aspect in this context was to bring an action against the international federation before a German court.

The court ruling therefore is important not only because of the judicial review of suspensions of athletes imposed by a federation, but also because it established the jurisdiction of a German court for decisions of an international federation. This means that an athlete enjoys legal protection vis-à-vis international federations. The court did not find fault with the 12 months suspension, but disapproved of the two-years extension by the IAAF. Under German law, a three-year suspension because of abuse of medicaments represents a restriction on the practice of an occupation within the meaning of Art. 12 of the Basic Law.

HUNGARY

SPORTS AND LEGISLATION IN HUNGARY

July, 1997

The interrelationships of sports and legislation in Hungary

Introduction: The purpose of this study is to give a brief presentation of the institutional system and statutory regulation of sports in Hungary.

To a great extent the present situation of Hungarian sport is an outcome of the period between 1949 and 1989 spent in the socialist formation, when sports organisations operated under central governmental control, which for the most part excluded the possibility of social self-organisation, but on the other hand financed the operation of both the lower and the upper levels of sports institutions almost entirely. The 1989 change of regime brought profound changes in its train for Hungarian sport. Along with the provision of statutory framework for social self-organisation and in line with the strengthening democracy it reduced its participation in the control and management of sports organisations at an increasing pace, and simultaneously it withdraw from the financial side of sports as well. The range of "permissible" sports branches - and thus also the number of sports associations - have more than doubled. Control over sports life assumed a preponderantly social character: various social sports organisations representing different interests popped up one after the other. In 1996 the Sports Act was passed to give a framework to the entire field, and this defined the extent to which the government is allowed to participate in the control and funding of sports as well as the state supervision of sports affairs.

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Chapter I : The Structure of Sports in the Republic of Hungary

1 The Voluntary Sector

1.1 The voluntary sector - at a national level

1.1.1 For the purposes of performing the duties specified for national sports organisations in the Sports Act as well as in the charters of international sports organisations, the individual branches of sport operate specialized national sport associations as public organisations. A branch of sport is allowed to form a branch association and an operating sports association may become a branch association if it lives up to the requirements of the Sports Act. Each branch of sport may operate only one association. Branch associations pursue their activities pursuant to the rights of association and assembly as well as to the Sports Act.
Aside form other duties, a branch association is the only and exclusive body entitled to establish the rules of competition, of games, of registration and transfer, and of discipline, to schedule the national and international competitions, to develop and organize the system of competitions, the (Hungarian) National Championship and the competitions for the Cup of the Hungarian Republic, to run representative teams (leagues) and represent the country at international sports events through them, to grant or refuse the consent required by international associations to the participation of sportsmen at international events, to represent the Republic of Hungary in the international organisation of the particular branch of sport, and to utilize the rights and assets related to sports events organized or arranged by it.

Any private person or corporate body having the rights of a legal entity and pursuing sports activities in a particular branch of sport may become a member of the relevant branch association. Branch associations are usually run with small staffs.

1.1.2 In case the national association working in a specific branch of sport does not wish to become a branch association or if it fails to meet the requirements of the Sports Act, then pursuant to the provisions of the rights to association and assembly, it is entitled to operate as a social organisation (club). The duties assigned to a sports association are similar to those of a branch association, however, the rights specified in section 1.1 hereabove are not exclusive.

1.1.3 The duties of the Hungarian Olympic Committee (HOC), which operates as a social organisation, include preparation of the sportsmen's participation in the Olympic Games, and to take steps to counter harmful phenomena. Aside from these duties, it also provides financial support to the individual branch associations and sportsmen in line with the principles defined by itself.

1.1.4 The gradually strengthening Sports Association of Hungarian Universities and Colleges is an association coordinating the sports activities of the institutions of higher education active in Hungary. Its main purpose is to coordinate the organized sports activities of students, teachers and employees of the different institutions of higher education, to popularize and spread sport and to increase the number of people engaged in it.

Within this framework it organizes and arranges for the sports life of the institutions of higher education, it specifies its system of competitions and ensures the terms of its operation, further more it organizes and coordinates the Hungarian University and College Championships. It consists mainly of Hungarian institutions of higher education, but private persons and business organisations may also become members in them.

1.1.5 The Hungarian Sports Association coordinates the activities of its members, safeguards their common interests, and strives for facilitating the work of its members. Any of the national branch associations and sports associations may become its members. It pursues its activities on the basis of Act II of 1989 on the rights of association and assembly.

1.1.6 The Association of Hungarian Student Sport (AHSS) is a social organisation established for the purposes of performing the national duties of students' sport life and for coordinating the activities of students' sport organisations on which they are built. It is a social organisation which works along the principles of a self-government. AHSS is run pursuant to the rights of association and assembly. The charter of AHSS defines student sport as a sports activity done beyond classes by young people studying within the framework of public education, pursued in line with the particular institution's pedagogical program, complementing it and enriching it.

Any students' sport association active in public education may become its member. Institutions of public education may also join it if no students' sport association with the rights of a legal entity is active in them.

1.1.7 The National Association of Sports Clubs represents the interests of sports clubs. Its members are sports clubs. It pursues its activity as a social organisation, pursuant to Act II of 1989 on the rights of association and assembly. It has a preponderant role in Hungarian sports life.

1.1.8 Other national organisations include: a great number of national social organisations which wish to ensure support for their members in the fields of sports health, sports sciences, sport for the disabled and so on.

1.2 The voluntary sector - at a local level

1.2.1 Regional associations (which are usually adjusted to the administrational division of the provinces) and local associations are generally regional and local units of the relevant branch or national sports associations, and as such they are engaged in the performance of duties related to regional and local competitions. The employment of paid staff is not characteristic in such organisations.

1.2.2 A few years ago the model preponderant in Hungary was the large sports association with several sections under its control. Primarily for financial reasons, the individual sections have quitted these large clubs , thus by now the most wide spread formation is the sports associations organized around one single branch of sport. The sorts clubs and associations in the forefront of competitive sports are run with a few paid employees. Clubs work on the basis of Act II of 1989 on the rights of association and assembly.

2. The state administrational sector

2.1 The state administrational sector at a governmental level

2.1.1 The central governmental duties related to sport are performed by the Hungarian National Office for Physical Education and Sport (NOPES). NOPES is an independent state administrational organisation with an authority extending to the whole country, which works under the direct control of the government. It is headed by a President appointed by the Prime Minister. NOPES is supervised by a member of the government (at the moment the Minister of Home Affairs).

NOPES elaborates the principles ad directives of central development related to sport, it initiates and prepares all the government decisions on issues related to sports, it facilitates the popularization of healthy life styles and leisure time sport activities, the creation of conditions for the latter, it provides direction to the institutions under the direct control of NOPES (the central training camps), it passes resolutions on the utilization of state funds earmarked for the purposes of sports, it performs governmental duties related to international sports relationships, it facilitates the co-ordination of the activities of different organisations engaged in physical education and sports, it cooperates with such organisations, it contributes to the co-ordination and development of scientific research related to sport as well as to the practical utilization of its results, in co-operation with the ministers and social organisations concerned it provides for the training and postgraduate training of sports experts, it cooperates with the ministers concerned in the specification of duties related to sports health, physical education and sport at schools, it runs the establishments serving the purposes of preparing the national representative teams, with respect to the assets held by NOPES, pursuant to a permission granted by the supervising minister in agreement with the Minister of Finances it is entitled to the foundation of public service corporations for the purposes of managing the treasury property, it organizes the observation and control of prohibited performance increasing agents, specifics and methods, it develops and runs a sports information technological system, it supervises the operation of real estates specified in a separate statutory regulation and used for sports purposes, and it cooperates with local governments.

The President of NOPES is entitled to supervise the legality of the branch associations operating under the Sports Act. In case a branch association acts in an unlawful manner, the President of NOPES is entitled to appeal to the Central Court of the Capital City for remedy against the branch association's resolution, it may declare any unlawful resolution of the passed on the basis of the association's rules for competition, games, registration, transfer and discipline null and void, and may order the institution of a new procedure.

2.1.2.6 § In order to help governmental duties related to sport, to control execution, and to strengthen the social character of sports administration, a Sports Council works with thirteen members.

The Sports Council contributes to the elaboration of allocation principles and channels applicable to the funds earmarked from the central governmental budget for the support of sports organisations and supervises allocation in line with the established principles, it submits proposals to the development principles, programs and directions of the government in relation to sport, it participates in their elaboration, it gives its opinion on the draft resolutions of the government and may even initiate such resolutions.

In connection with the performance of the above duties the Sports Council may initiate measures at the minister supervising NOPES's operation.

The Sports Council's members include: the Hungarian Olympic Committee, the Hungarian Sports Association, the National Association of Sports Clubs, the Council of the Associations of Local Governments, the National Office for Physical Education and Sport, the minister responsible for the supervision of NOPES, the Hungarian Students' Sport Association, the Hungarian Association for Leisure Time Sport, the National Association of Hungarian Technical and Mass Sport Clubs, the Hungarian Association of Nature Lovers, the Sports Association of Hungarian Universities and Colleges, the Hungarian Association of Sports Establishments, a candidate of the Hungarian University for Physical Education invited by the Prime Minister and appointed for a term of four years.

The secretarial duties of the Sports Council are performed by NOPES.

2.2 The state administrational sector - local level

2.2.1 The local governments are entitled to determine the objectives and tasks of physical education and the development of sport on the territories within their powers (of villages and towns), in harmony with their own principles they support the organisations engaged in physical education and sport, and they maintain and operate the sports establishments in their ownership.

2.2.2 Beyond the duties listed in section 2.2.1 above, the municipalities of the provinces and of the capital city also support the development and operation of regional competition systems and the organisation of sports events, they contribute to the basic and further level training of sport experts and specialists, in co-operation with the branch associations they ensure training and postgraduate training for referees, umpires, members of juries and hike guides, it facilitates the activities of physical education, student, leisure time, competitive sport and nature lover organisations active on the territories of the capital city or the provinces (hereinafter: the regions of competence), ensure the fundamental conditions of operation for student and branch associations on their respective regions of competence, they contribute to the arrangement of student, leisure time, competitive sport and hiking events, or organize them, they cooperate with state and municipal organisations active in physical education and sport in their regions of competence, with special respect to educational institutions.

3 The business sector

3.1 In numerous cases companies and business organisations contribute to the development of sport on both national and local levels, supporting branch associations, sports clubs and individual sportsmen.

Chapter II The Political Framework

4. Central organisations engaged in sports

4.1 The Minister of Home Affairs prepares the statutory regulation of sport affairs, and supervises the National Office for Physical Education and Sport.

4.2 The Ministry of Agriculture specifies the rules of visiting the forests marked out for the purposes of sport, tourism and recreation, and the nature protection authorities under the Ministry of Agriculture grant permission for the organisation of mass sports events and sports events on protected territories.

4.3 In its capacity as the leader of the national defense administration, the Ministry of Defense is responsible for the performance of duties specified in the Act on Home Defense and its enforcement order for military physical education and sport.

4.4 The Ministry of Transport, Telecommunication and Water Management specifies the fees applicable on public roads used for the purposes of sports events, while permission is granted by the managers of public roads. Depending on the quality of the particular road, the manager may be a concession company, a public service corporation, a governmental organisation, the body of representatives of a municipality, or a notary.

4.5 The Ministry of Education is accountable for the supervision of physical education activities in educational institutions. Schools must provide for the organisation of easier physical education in the framework of regular obligatory classes. Schools have to create the conditions for the students' and pupils' everyday physical training, and provided that a given school runs no less than four years and at least one class in each year, the school must ensure operation of a school sports club.

4.6 In the fields of sport and physical education, the primary objective of the Ministry of Health is to enforce public health requirements and to utilize the health improving effects of sport and physical education in the course of prevention and recreation.

4.7 The manufacture and trade, acquisition, keeping, import, export, transport and repair of firearms, ammunition, gas and pop guns, as well as air rifles are subject to license. It is the police who are entitled to issue and withdrawn licenses and institute official procedures.

4.8 The Supervision of Games of Chance issue licenses for the individual games of chance, arrange them and supervise them.

Chapter III Statutory regulations on physical education and sport

5.1 Historical preliminaries

1 **Ratio Educationis 1777.** It obliged schools to obtain proper facilities and means for training the bodies and maintaining the strength of schoolchildren and students. It stipulated that at the seat of each educational institution a proper site suitable for a playground should be marked out for the purposes of everyday exercise and practice.

2 **Act XXXVIII of 1868.** In the public elementary school, the higher level people's schools, as well as in higher elementary schools of the villages and settlements physical exercise shall be an obligatory subject, with a view to military service,

3 **Act XXX of 1883** included physical education among the compulsory subjects of secondary school education.

4 **Decree 51869/1891 of the Minister for Religion and Public Education (hereinafter: "MRPE")** ordered an increased practice of physical exercises, excursions and skating.

5 **Decree 17466/1892 of the MRPE** on the role of swimming and bathing in physical education. In order to facilitate enforcement of the decree, the Minister of Trade permitted discount railway tickets for the purposes of approaching health resorts and spas.

6 **Decree 1193/1892 of the MRPE** took measures for ensuring the possibility of organizing sports competitions at institutes from 1892 on.

7 **Decree 6125/1892 of the MRPE** regulated the construction of sports halls.

8 In the second half of the 19th century several clubs were organized on social basis which took sport as their main objective - with physical education in focus. **Decree 1394 of 1873 issued by the Minister of Home Affairs** stipulated that the charters and statutes of such clubs shall be countersigned by the competent governmental authorities, and it assigned corporate rights to such clubs.

9 **Act XIII of 1913** stated that 2% of the total income of horse races shall be spent on the purposes of physical education and sport.

10 **Act LIII of 1921 on physical education.** This act specified the duties of physical education, for the purposes of which the government shall provide for the regular physical education of schoolchildren, and at the institutions of higher education for the possibility of regular physical training. The act contains provisions on the establishment of a College for Physical Education.

11 **Decree 9000 of 1924 by the MRPE** was issued for the enactment of Act LIII of 1921.

12 **Act III of 1924** contained provisions on the National Fund for Physical Education. A specified percentage of the amounts bet at horse races were made available for the MRPE, and these could only by used for the purposes of physical education.

13 **Circular letter 305446 of the Minister of Home Affairs** stipulated that the financial requirements of physical education in the villages and settlements should be covered within the "household" budget of the settlements.

14 **Decree 29546-IV of 1928 issued by the Minister of Home Affairs** stipulated that Hungarian sports life shall be managed by national sports associations and the under the supervision of the MRPE and the National Council for Physical Education (NCPE). The decree also regulated the term "association".

15 **Decree 1110-0-1 of 1930 issued by the MRPE** assigned a new rules for NCPE. Up till that time it was primarily entitled to supervision and administration. Thus for example:

- the control and supervision and rights over the management of the finances of sports associations,
- establishment of the amount of money to be spent on the purposes of physical education from the central budget,
- the control of the activities of organisations engaged in physical education and of the utilization of the allocated amounts.

16 In line with the particular political and wartime situation **Act XII of 1941 on the simplification of the administration of public education** and Decree 5520 of 1941. ME on its enactment heavily centralized management.

17 sports associations and sports clubs were drawn under the direct control and supervision of the MRPE. **MRPE's decree 23900 of 1942** terminated the independence of associations, while its decree 24200 terminated those of clubs.

Following World War II, sport was predominantly regulated by the state administration, and the centralized state control and management of sport became the characteristic feature of the field.

18 **Government decree 3190/1948** assigned the duty of managing and developing sport and physical education to the MRPE, and thus made it a task of the government. The supervision, management and financial support of social sports organisation sports organisations were assigned to the competence of the central sports authority.

The central sports authority's duties were performed by the National Office for Sport (hereinafter: NOPES), with a secretary of state at the Ministry of Religion and Public Education at its head.

19 **Government decree 2 of 1951** established the National Committee for Physical Education and Sport operating alongside the Council of Ministers of the Hungarian People's Republic.

20 **Act I of 1950** introduced the system of councils. The new central body of sports administration is directly subordinated to the Council of Ministers. The complete elimination of the social character of sport resulted in a direct control of the state, and a sports management hierarchy evolved to apply the means of force and administration.

21 **Act 18 of 1955 on unions** gave a meticulous regulation of clubs and unions, and detailed what a union (or club) organized on a social basis and implementing the social, economic and cultural objectives of the people's democracy should do .
In this period (in other words between 1945 and the mid-1960's) sport policy's propaganda function was highly intensified. It is primarily the top sportspersons who are suitable for incorporating such principles, therefore the major part of state support was focused on this field. This concept resulted in a twofold phenomenon: on the one hand, the efforts made for boosting top sport were met with complete success, on the other hand Hungarian sports movements were torn into two: its medicinal and life style improving function were thrust into the background. Student sport was cut back, and mass sport was characterized by a quantitative approach entailing an attitude thinking only in terms of campaigns.

In the period between 1963 and 1973 a new era of "re-socialization" set in.

22 Along with providing further moral and financial support from the state, **Government decree 29 of 1963** on the social control of physical education and sports movements stipulated that the central, regional and local units of sports management active so far should be terminated. It established the Hungarian Association of Physical Education and Sport (APES) along with its regional and local units. This decree exempted sports associations from the provisions of government decree 18 of 1955, and placed them under the supervision of the competent regional and local APES.

23 The most significant statutory regulation of the period of re-nationalization was **government decree 9 of 1973** on sports management. This decree established the National Office for Physical Education and Sports as an organisation of state administration with nation-wide competence, which was directly under the management and supervision of the Council of Ministers.

24 **Resolution 1028/1975 (15.X.) of the Council of Ministers** provided for the Hungarian Olympic Committee. This brief statutory regulation contained barely more than a declaration of the establishment, and it was the very first stage of the process leading up to the HOC separating from the governmental control of sports life.

25 **Decree 9 of 1986** on the State Office for the Youth and Sport may be taken for an outcome of the last period mentioned above and the first one of the next.

This was the very first statutory regulation in four decades to establish an organisation at the top of sports life with a mixed profile - a central unit of state administration authorized to manage the affairs of both the youth and sport. The SOYS was a legal successor to both NOPES and the State Youth Committee. The president of SOYS provided for the central management of the specialized activities related to sport through the executive committees of the regional councils of the provinces (capital city)

The provisional nature of the period hallmarked by SOYS and the incorrect concept of mixing youth affairs with sport was clearly indicated by the fact that the Council of Ministers terminated SOYS in its decree 13 of 1989.

26 Subsequent to this decree **67/1989 (30. IV) of the Council of Ministers** established the National Sports Office for the purposes of performing the government's duties related to sport and to operate within the structural organisation of the Ministry of Education.

27 With respect to sports associations, **Act II of 1989,** which regulated the rights of association and assembly, brought about major changes. The system of central governmental control restricting the powers of local governments was terminated, and this entailed a termination of direct intervention of sports management into the lives of sports associations. The era of state organized, maintained and operated sports associations was finished once and for all. The legal supervision of sports associations has been assigned to the public prosecutors and courts.

5.2 Effective regulations

Act CXXVI of 1996 on the utilization of a specified percentage of personal income tax for purposes at the tax payer's discretion.

Pursuant to the provisions of the Act on Personal Income Tax, tax payers may provide for the utilization of one per cent of the tax paid up by them to the benefit of a beneficiary selected by themselves at their discretion. This amount shall be transferred by the Tax and Financial Control Office to the beneficiary pursuant to a statement made by a private person and on the basis of the relevant column in the declaration of income for tax return.

Under this act any and all social organisations falling under Act II of 1989 on the rights of association and assembly may be beneficiaries, provided that they are exclusively engaged in children's, youth and leisure time sport, or the sports activities of disabled persons.

Act LXV of 1996 on the settlement of the ownership conditions of the individual real estates used for the purposes of sport.

The ownership rights to the real estates under this act may be obtained free of charge by the sports organisations using the particular real estate, the municipality competent on the territory where the said real estate is located, or in the capital city the municipality of the capital city - under the conditions and in the order of preference established by the provisions of the act. It is a prerequisite to the acquisition of ownership rights that the sports organisation or the municipality undertake to use the particular real estate for the purposes of sports activities - primarily for the same purposes as pursued before the transfer of entitlement - for a period of no less than 15 years from the acquisition of ownership rights, and that the particular sports organisation or municipality has not got overdue tax payment liabilities or pays its tax payment liabilities continuously, in predetermined instalments. For the period of 15 years the property may not be sold or encumbered.

Act LXIV of 1996 on sport.

This act acknowledges the social character of sport, and accordingly one of its essential elements is to determine the structural system of sport, which fits into the constitutional system of institutions. Basically, sports activity is built on social organisations founded and operating pursuant to the provisions of Act II of 1989 on the rights of association and assembly (clubs), however, as a consequence of the highly organized nature and international character of sport, branch associations play decisive roles. That is why the act stipulates that in case an association fails to meet the requirements of the act, upon its request and pursuant to the provisions of Act II of 1989 on the right of association and assembly, it may continue operation as a public body.

This act allows for the pursuit of sports activities outside the scope of clubs as well, that is to say, not only clubs may participate in the competition systems of the individual branch associations, and the branch associations may have members which are not clubs but other legal entities pursuing sports activities, thus for example business organisations.

Along with acknowledging its outstanding role played in the international Olympic movement, the act provides for the Hungarian Olympic Committee, which is another public body now.

Beyond the establishment of an institutional system in line with the requirements of a constitutional state, the act specifies the duties of the central government as well as those of the municipalities in the field of sport. The state shall support competitive sport, children's sport and leisure time sports activities, as well as the sport pursued by disabled persons. Beyond the central budget, the act ensures other financial sources for the support of sport. By way of establishing public foundations the act elaborates solutions for financing public service operation in the long run.

Pursuant to this act, the role assigned to the state in the field of sports is more to facilitate successful operation and at the same time to ensure the autonomy of sports organisations and the strengthening of their self-regulatory capacities.

Pursuant to section 70/D. (2) of the Hungarian Constitution, the right to regular physical training is one of the fundamental rights to be ensured, the rules of which shall be established in an act. Correspondingly, the primary task of the government is to provide statutory regulation. Normative decrees are aimed basically at the determination of the structural framework and the specification of uniform conditions required for the exercise of sports activity, while they also allow for a wide range of regulatory possibilities for sports organisations.

Act LIV of 1996 on forests and on the protection of forests, as well as decree 29/1997 (30. IV.) of the Ministry of Agriculture on the enactment of the previous.

Pursuant to this act, a forest marked out for the purposes of sport, tourism and recreation shall be considered health, social and tourist forests (park forests).

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The act regulates visiting such forests for the purposes of recreation and sports. Thus for example, one can stay in a forest for a continuous 24 hours or more for recreational or sports reasons and sports events may be organized in them only with the consent of the manager of the forest.

Act LIII of 1996 on the protection of nature.

This act stipulates that the competent nature protection authority's permission is required for the organisation of public and mass sports events on protected territories, sports events and sports activities of technical nature.

Act I of 1996 on radio and television broadcasting.

The act stipulates that if any otherwise public event is broadcast by a broadcasting corporation with exclusive rights, then other broadcasting companies or its news programs may give air any part of the event concerned in line with its needs the to the extent that it should not exceed the extent to which the free use of copyright works of art are allowed in the law of intellectual rights on radio and/or television. Broadcasting a part of the event shall meet the requirements of a program or newsprogram if it does not exceed ten per cent of the program time (item of program), but in any case maximum fifty seconds.

Pursuant to the act, one representative is delegated by the national organisations safeguarding sports interests into the advisory boards of Hungarian Radio Public Foundation and of the Hungarian Television Public Foundation, each of the latter having twenty one members. The national organisations safeguarding sports interests delegate one additional member into the advisory board of Hungária Television Public Foundation.

Act LIII of 1995 on the general rules of environment protection.

The act stipulates that the water reserves marked out for the purposes of recreation, sport and therapy should be given increased protection.

Act CXVII of 1995 on income tax.

The tax to be levied on the consolidated tax base established a private person shall be reduced by 30 per cent of the amounts paid (or handed over) in the financial year for the purposes of public foundations and obligations undertaken in public interest (referred to collectively as a public donation) - except for public donations made by a self-employed entrepreneur and already deducted from his/her venture tax base -, provided that the public foundation serves the purposes of the activities listed in the act / among them sport.

With respect to the utilisation of donations received by a private person amounts paid by foundations serving the purposes categorised as public donations or by public foundations for the purposes of supporting a participant of student or leisure time sport in line with the provisions of the statutes of such foundations and not exceeding HUF 500 at a time shall be exempt from tax.

From among allowances in kind the following shall be exempt from tax:

a) institutional supply provided to kindergarten, nursery school and school children, including all services provided at the sports events of any sports institution operated by the person paying up the contribution, except for the costs of travel, accommodation and meals.

b) an allowance paid to the participant of training or competition organised in order to promote competitive student sport by a sports organisation, for the purposes of providing supply outside working time under the titles of travelling, accommodation and meals, however an accommodation for more than a continuous 30 days (hotel accommodation, season tickets, rented rooms, etc.) provided to a sportsperson shall be out of the sphere of exemption, even if the place of accommodation is changed during this period, except for the case accommodation during preparation for the Olympic Games, world or European championships,

c) protective clothing and uniforms bearing the national coat of arms and provided for competitors and official leaders as prescribed by international organisations during the sports organisations' participation in the Olympic Games, world and European championships.

Act C of 1995 on customs, the procedures of customs clearance, customs administration and government decree 45/1996. (III. 25.) on its enactment.

All the articles subject to duty should be cleared in the framework of a temporary customs clearance, while the ownership right of the foreign owner should be retained, for the purposes of temporary use, demonstration or try, and such goods shall enter the customs border under the obligation of returning them to their places of origin.

Luggage is duty free, with special respect to one tent and the camping accessories, sports equipment and facilities (e.g. fishing outfit, one bicycle, one kayak or canoe not longer than 5 and a half meters, 2 pairs of skis, 2 tennis rockets, a windsurf with a sail, surfing boards without sails), one hanging sail, one hot-air balloon, one parachute, and similar articles.

The passenger may also bring in the following things duty free: in cases of foreign hunters and participants of sports events a separate statutory regulation allows for the importation of weapons and ammunition used for the purposes of hunting and sports shooting in the quantity specified in the relevant regulation.

Sporting goods, sports facilities and sportswear received by sports associations (including sports clubs and their respective associations) pursuant to an agreement concluded with a foreign firm without compensation or consideration and not traded are also duty free, provided that the leader of the sports association concerned certifies their registration and they are not sold or otherwise alienated within the period of three years.

The cups, medals, plaques, certificates, diplomas and all other objects of symbolic value won at sports competitions abroad are also duty free.

Act LXXX of 1993 on higher education.

In order to facilitate their co-operation, as well as the concentrated and optimum use of their intellectual and financial resources, the institutions of higher education are allowed to form associations. An association is a legal entity (body corporate). The institutions forming the association may establish and mantain joint cultural and sports establishments.

The students are entitled to use the equipment, facilities and premises, especially those available in their respective institutions (e.g. sporting and leisure time establishments).

The students' self-government is entitled to express its opinion on the utilization of the establishments, especially the sports establishments of the respective institution of higher education.

The students' self-government is entitled to give its consent to any changes implemented in the proper utilization of properties, establishments, organisational units and premises used for sports purposes, its termination or utilization for other purposes.

Act LXXIX of 1993 on public education.

Children, school children and pupils are entitled to be educated and instructed in educational institutions among safe and healthy circumstances, to have periods of rest, leisure time and physical exercise inserted in their kindergarten, nursery school and school education, as well as to have sporting and boarding possibilities ensured in line with their ages and states of development.

The organisation of daily physical exercise shall include the activities of school sports clubs as well.

The following facilities of educational institutions maintained by municipalities and governmental organisations may be used free of charge:

a) in any case at primary schools and in years laying the foundations of basic education, as well as at technical and secondary schools:

- activities pursued over a specified timeframe of classes, including the activities of school sports clubs, daily physical exercise, school championships, competitions and championships between schools, etc.,

- the use of facilities in different school establishments (library, laboratory, computer center, sports and leisure time establishments etc.) required for the use of free services,

b) at student hostels the establishments and facilities of the hostel (library, laboratory, computer center, sports and leisure time establishments etc.) required for the use of free services and for using accommodation facilities.

Act LXXIV of 1992 on value added tax.

The events of competitive and top level sports as well s the arrangement of the events of competitive and top level sports falls among the products and services taxable by 12 per cent.

Intrinsic exemption from taxation is granted to the sales and service provisions aimed at renting premises and other independent units for the purposes of sports in line with their intended purpose, as well as sports and leisure time service provision (except for competitive and top level sport, the arrangement of competitive and top level sports events, and for services related to swimming pools and open air pools).

Act II of 1989 on the rights of association and assembly.

At the moment, the pursuit of different sporting activities is done in the framework of social organisations (clubs) founded pursuant to the right to association and assembly. Such clubs are registered at courts and their legal supervision is performed by the prosecutors.

Act II of 1972 on health affairs and decree 16/1972 (29. IV.) MT on its enactment.

Pursuant to the provisions of this act the requirements of public health must be brought to effect in physical education and sporting activities.

The prevalence of health considerations in physical education and sport shall be ensured. In order to achieve this goal, the participants of physical education and sportspersons must be given proper health care, however, their performance may be increased only as far as avoiding risks to their health - as to the current state of scientific research. With respect to the prevention of diseases and to healing, the beneficial effects of physical education and sport must be utilized.

Government decree 115/1991 (10. IX) on small fire arms and ammunition, gas and pop-guns as well as air rifles and shooting ranges.

This decree specifies the provisions on the manufacture, import, trade, keeping and use of fire arms and their accessories.

Government decree 13/1991 (18. I.) on reduced fares on public passenger transport vehicles.

Upon presentation of their certificates or vouchers entitling them to do so, sportsmen (competitors of sports clubs, associations and sections as well as referees, umpires, trainers, doctors, masseurs and those in charge of equipment stores) and nature lovers registered at organisations are entitled to be granted a 50% discount (preferential tickets) for an unlimited number of trips if at least four of them travel together to a competition included in the official schedule, to an international competition, of to an excursion or a trip. Referees and umpires are entitled to this allowance also individually. These discounts may be used by a group of no more than 30 sportsmen at a time from one and the same branch of sport, within which the number of accompanying persons may not exceed 5.

Government decree 45/1986 (30. X.) on the restriction of the sales and consumption of alcoholic drinks.

At sports events drinks of only low alcoholic content may be sold and consumed - with the restrictions stipulated in statutory regulations.

Decree 1/1982 (1. I.) of the Ministry of Public Health on the establishment sports pilots' aptitude for flying and on the operation of Medical Committees for Aviation.

1. § (1) This decree regulates the compulsory participation of non-professional sports pilots (air plane and helicopter pilots, glider, sailplaning and balloon drivers) as well as parachutists in medical aptitude tests.

Joint decree 20/1991 (5. IX.) of the Ministry of Agriculture and the Ministry of Finances on the rules of horse racing.

This decree contains provisions on all horse and horseman competitions where bets are made. The following competitions constitute horse races: gallop, trotting race, obstacle riding, cross-country riding, ambling, charioteering (single and double harness), dressage test, show-jumping, military (three days long), pentathlon riding, coach-and-two and coach-and-four driving, high jump, rodeo, equestrian tournament, and other competitions of demonstration plays. For the purposes of organizing bets on horse races the Minister of Agriculture - in agreement with the Minister of Finances - establishes a government owned company under the supervision of state administration.

Decree 19/1994 (31. V.) of the Ministry of Transport, Telecommunication and Water Management on the administration of public roads.

It specifies the fees payable on public roads and pavements if they are used for the purposes of sports events - with a view to the classification of public roads and to the nature of use.

Joint decree 13/1996 (5. IX.) of the Ministry of Public Health and the Ministry of Home Affairs on the issue of the professional and examination requirements of sports qualifications.

This decree determines the individual professional and examination requirements of sports qualifications. Having the central programs for the subjects of the different branches of sport elaborated, the requirements of the individual branches issued and the chairpersons of examinations appointed are duties assigned to the president of the National Office for Physical Education and Sport.

The persons involved in the work of the professional examiners' team include:

a) with respect to sports teachers', instructors and trainers qualifications: the representative of the national or regional branch association concerned,
b) if sports organizers' and sports managers' qualifications are issued, the representative of the National Office for Physical Education and Sport.

Sports teachers', instructors' and trainers' qualification recognized by the government may be acquired in sports recreation, as well as in those branches of sport which have branch associations meeting the requirements of the provisions of Act LXIV of 1996 on sport.

Decree 6/1991 (23. VII.)of the Ministry of Public Health on the sanitary duties related to sports events.

At sports events the organisation arranging for the sports event shall ensure sanitary and medical supply as provided in this decree.

In order to prevent injuries and accidents at the sports event, as well as for taking all the required sports health measures, the organizer shall ensure sanitary and medical supply in function of the nature of the event.

Pursuant to the provisions of the decree, the national sports branch association shall regulate the necessary sanitary and medical care and supply in function of the nature of the particular sports branch and the particular event, in line with the rules of the game(s), of competition and championships specified by the particular branch association.

Decree 5/1991 (18. VII) of the Ministry of Public Health on the registration of sportspersons' entitlement to compete and participate in games.

Pursuant to the decree the branch association is obliged to provide for the registration of the sportspersons pursuing sports competitively. The rules of registration shall be established in separate statutes. Registration shall extend to all the data specified in the particular statutes of the association, and should also indicate whether the particular sportsman or sportswoman has been granted entitlement to compete or to play as a member of which sports association.

Decree 4/1991 (16. V.) of the Ministry of Public Health on the disciplinary responsibility related to sports activities.

The force of this decree extends to all the disciplinary responsibilities related to the sports activities of registered sportspersons, sports trainers, referees, umpires, elected officials and other sports professionals active in the framework of sports associations. An association of the particular branch of sport, a sports club which is a member of such an association, a sports school, a students' sports club or other legal entities shall specify the following within the framework of its own rules of discipline but observing the provisions of the statutory regulation:

a) all those offenses for which the perpetrator is amenable,
b) all the disciplinary punishments,
c) the authorities entitled to take disciplinary action and conduct its procedure, along with the procedural rules.

Decree 4/1986 (23. VI.) of the Ministry of Education on students' sports clubs as well as on the relationships between the clubs of educational institutions and students' sports clubs.

Pursuant to the provisions of this decree in order to ensure regular physical exercise for schoolchildren and students studying at educational institutions as well as for increasing the number of those who pursue regular sporting activities, student's sports clubs and students' sports associations may be established.

From the point of view of the application of the provision of this decree, a club is considered to be a students' sports club if no less than 80 % of its members are in a pupil's or students' legal relationship with the particular educational institution.

The sporting goods and articles purchased from the revenues realized by the students' club shall be managed as assets of the educational institution concerned, and shall be registered according to the rules of sale and purchase free of charge.

Decree 9/1990 (29. XII.) of the Ministry of Public Health on the specialized medical examination of sportspersons.

Any person who wishes to pursue sports activities on a regular basis or in an organized form, shall participate the sports medical examinations specified in statutory regulations. An applicant for the position of a registered sportsperson at sports clubs, associations, sports schools or other legal entities engaged in sports activities shall participate in a preliminary medical aptitude test before he or she starts regular training. The physician performing the aptitude tests shall have qualifications form the sports medical course organized by the Medical Postgraduate Training Institute. Before admission to competitions the competent sports physician shall certify the results of the preliminary aptitude test in compliance with the provisions of the relevant national sports branch association.

Decree 25/1991 (16. X.) of the Ministry of Finances on the duties related to execution of the issue, arrangement and supervision of games of chance

Decree 3/1992 (1. VIII.) of the Ministry of Physical Education on the awards to be granted in the fields of physical education and sport.

This decree specifies the governmental awards which may be granted for activities performed in the fields of physical education and/or sport and for outstanding performance in the course of such activities. Such awards are ceremonially handed over by the minister responsible for supervision or by the president of NOPES. A list of the persons awarded must be published in NOPES's official journal.

Resolution 24/1993 (9. IV.) of the Parliament on the concept of renewing physical education and sport.

The Parliament has passed its resolution in compliance with the Constitution of the Republic of Hungary, the Charter of European Sport, and the international conventions and agreements.

Chapter IV Financing the Hungarian Institutional System of Sports

6.1 The burdens of the central budget

6.1.1 Through NOPES's budget

The Sports Act of 1996 assigned the duties of operating the establishments of children's and youth sport, of the sports activities of the disabled of the Olympic movement, of competitive sports and of sports sciences, as well as the establishments used for the preparation of sportspersons for the Olympic Games and for the central governmental purposes of competitive sports to the government. The government also has to subsidize the representation of the Republic of Hungary in international sports events, and must provide for the individual duties of sports professionals' training and sports health, it is to run the information technological system of sport, to ensure the control and supervision of the observation of the provisions on the use of prohibited performance increasing agents, as well as to determine the legal background to the management of real estates and properties used for the purposes of sport, to their handling as treasury assets in its ownership and to the exercise of organized sports activities. For the implementation of these duties the National Office for Physical Education and Sport is called to account.

The president of NOPES is entitled to decide on the allocation of funds from the central governmental budget to serve the purposes of sport, and he supervises the operation of real estates and properties specified in a separate statutory regulation and used for the purposes of sports activities. NOPES also contributes to the implementation of all the other tasks of the government in relation to sport and finances all these from its own budget. The following income sources are available for NOPES for the performance of its duties specified in statutory regulations:

a) the subsidy approved for it in the act on the annual budget,
b) pursuant to the provisions of the act on the organisation of games of chance, the NOPES's net income earned after taxes from games of chance performed under the supervision of NOPES,
c) revenues realized from the sales of real estates specified in a separate act and used for the purposes of sports activities,
d) other revenues.

The act on the annual budget for the year 1997 earmarked a subsidy of HUF 5825.2 million (roughly USD 38 million) for NOPES from the central budget towards funding sports life.

6.1.2 The operation of public foundations aimed at the provision of support for sport

In order to ensure that financing is multi-directional and apolitical, legislation has provided for the establishment of public foundations. Under Hungarian law public foundations are foundations established by the Parliament, the government or by the representative bodies of municipalities for the purposes of performing obligatory governmental or municipal duties. Pursuant to the provisions of the Sports Act upon authorization from the Parliament the government was obliged to establish the Gerevich Aladár National Sports Public Foundation for the performance of the governmental duties related to Olympic movement, competitive sport, and for training junior teams and other supplies as of January 1, 1997. In the same way it had to convert the former Foundation of the National Youth and Leisure Time Sport for a Healthy Way of Life, which supported children's', youth and leisure time sports activities, as well as sport for the disabled, into the "Wesselényi Miklós National Public Foundation of Youth and Leisure Time Sport for a Healthy Way of Life", also as of January 1, 1997.

Public foundations allocate funds from the central budget on the basis of their own considerations (in 1997 roughly HUF 250 million was allocated), on the one hand, and on the other the Gerevich Aladár Foundation can manage the property ensured as initial assets, from their proceeds, from payments performed by supporters and sponsors, from donations and contributions of private persons, from 100 % of the taxes payable on pool (in 1997 these are expected to amount to roughly HUF 350 million), while the Wesselényi Miklós Foundation will be able to handle the 12% tax paid on games played with the application of a drawing of lots and from the supports of municipalities.

The advisory board of the Gerevich Aladár Foundation uses the funds available for it for normative subsidies on the basis of a score system elaborated by itself, for targeted and denominated support, for financing specific tasks upon invitation of a tender, for the support of private persons in the form of sports scholarships and for covering the expenses of the public foundation's operation. The Wesselényi Miklós Foundation uses its monies in a less sophisticated manner, only for normative support and for allocation through tenders.

6.2 The sports financing activities of the local governments

Moderate estimates indicate that in the year 1997 the municipalities will spend roughly HUF 7 billion on sport, approximately 30 per cent more than the amount the government can afford spending on it from the central budget.

The above referenced situation is all the more fortunate because the Sports Act provides for the support of sport only if it is in line with the objectives of a particular municipality. however, the Act on Self-governments (Act LXIV of 1990) stipulates that the municipalities' duties related to sport are not obligatory but merely voluntary.

Aside from seriously burdening municipalities, the other duties in connection with sport are far too manifold and require significant involvement, for the municipalities also perform organisational and arrangement duties the financing of which would entail considerable additional costs for sports organisations. Pursuant to the provisions of the Sports Act, the duties assigned to the municipalities include the determination of the objectives and duties of the development of physical education and sport on its area of competence, the development and operation of the system of regional competitions, the organisation of sports events contribution to the basic and further training of sports professionals, participation in the international relationships of physical education and sport, the training and further of referees, umpires, hiking guides, the supervision of physical education, students', leisure time, competitive sport and hiking organisations operating on their respective territories of competence, a contribution to the arrangement and organisation of students', leisure time activities, competitive sport and hiking events, the compilation of the annual competition and leisure time schedules for the province, their publication, performance of the control, financial and economic duties assigned into their powers, and the performance of regional data provision duties related to sports activities in their respective regions towards the central government.

6.3 Other organisations

Further social organisations involved in funding sport in Hungary include the Hungarian Olympic Committee. With a view to the provisions of the Sports Act, HOC's task is to prepare and promote the participation of Hungarian sportsmen and sportswomen in the Olympic Games. To this end HOC has built out a supporting system of different companies who may gain the titles "official sponsor of the Hungarian Olympic Team of the golden rank", "of the silver rank", or "of the bronze rank" in proportion to their contribution made.

Another financial possibility available for utilization under the Sports Act includes the fact that HOC has the exclusive right to the collection of all the benefits from the use of the Olympic flag, the emblem, as well as the denomination "Olympic".

6.4 Other income sources of sports organisations

Further sources of revenues for the sports organisations include the different sponsors' agreements, on the one hand, while on the other, pursuant to the provisions of subsection g) of (1) in section 16 of the Sports Act, a particular national sports branch association has the exclusive entitlement in its respective branch to utilize the assets realized in relation to sports events organized by itself in its branch, thus the consideration for such assets also yield revenues.

Membership fees, transfer fees, the disbursement of education costs and penalties paid up as disciplinary punishment all increase the budgets of associations and sports clubs.

Chapter IV The major legal issues of sport

7.1 Doping

The regulation on doping is one of the issues of major importance in sports legislation. In Hungary each sports association is obliged to take measures against damaging phenomena appearing in sports movements, thus also against prohibited performance increasing agents, preparations and methods. On the basis of its membership in the respective international association, the branch association is obliged to observe all the provisions and resolutions on doping.

In case an infringement of the provisions of doping is discovered, the particular association must institute disciplinary proceedings in its own authority and on the basis of its own votes, and simultaneously the international association also brings an action in the case on the basis of the provisions applicable to its own national association and then passes a resolution. It may happen that the responsibility system applied by the international association is not in harmony with the responsibility system applicable in the country of the national association. The International Athletics Association (IAAF) advocates the unconditional responsibility for doping without exemption, which responsibility is applied extremely rarely in Hungarian legislation. For example, in the case of the athlete Tibor Gécsek, the competent Hungarian association conducted a disciplinary procedure for doping, and on the basis of its disciplinary rules for the first time the athlete was acquitted, for his guilt could not be proven, while the international association's statutes forbade him from doing sports.

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The relevant legal situation is rather confused, the arguments raised by both parties are quite understandable, therefore either a solution to be integrated into a higher level legislation above national legal systems or a forum whose resolutions are respected by everybody is needed.

7.2 Injuries and damages related to sports activities

When a sportsman enters the ground or field, he or she is, of course, aware of the fact that injuries, damages or even permanent deficiencies may befall him or her, and so he starts his sports activity with full acknowledgment of this. Consequently, for the damages suffered by a sportsperson in the course of his or her sports activities generally no indemnification is paid, for it is considered to be a risk undertaken voluntarily in the act of pursuing sport. Such damages must be borne by the sportsman or sportswoman himself or herself. This, however, does not hold true to the case when other persons or organisations may be blamed for the injuries and damages (e.g. the sportsman is given deficient sporting articles or the sports association behaves in a manner resulting in an accident).

In cases of injuries caused in sports situations (naturally, in function of the nature of the particular branch of sport) Hungarian criminal legal practice the perpetrator may not be punished if there is any reason to exclude punishability - say the injured person's consent.

Naturally, this does not hold to gross and intentional violations of the rules of sports activities, if the perpetrator the commits the act outside the scope of the particular branch of sport.

7.3 Issues related to taxes payable by sports organisations

Subsequent to the change of regime in Hungary the funding of sports life took a course which resulted in the phenomenon that the payment of different taxes and other contributions have become a major problem for sports organisations. Since there are no statutory regulations facilitating the operation of non-profit organisations - and the other effective regulations (primarily those related to taxes and social security contributions) also miss such provisions -, the mere fact that direct operational costs for are ensured for the moment has fully exploited the resources of the organisation run among straitened circumstances . By 1992 the situation became so grave that that the different sports organisations accumulated a total amount of payment liabilities in tax and social security contributions to some HUF 900 million. In the exalted atmosphere of the Olympic Games, the government practically released the public debts of sports organisations. By June 1997 the situation showed an frightening similarity to that of 1992, for Hungarian sports organisations (primarily football clubs and other sports clubs) have accumulated overdue tax liabilities in the amount of HUF 3.2 billion and overdue social security contribution liabilities in the amount of HUF 2.8 billion, which is so much the more dangerous not only because these sums work out roughly at the level of the central budget's annual expenditures on sports purposes, but also for the reason that the Sports Act ties both the disbursement of subsidies allocated to sports associations and the granting of support from the foundations established for the purposes of sport to the prerequisite of entire lack of debts or to continuous payment of installments. In this situation we can only hope that the government takes similar steps as in 1992 (though it is thought provoking that those who have regularly paid up their public debts are put in a disadvantage to those who are released from their unpaid debts, however, the social interest attached to the operation of sports organisations would perhaps make it justified to make an arrangement like in 1992 for the last time), for if the campaign on the collection of unpaid debts is launched, a significant portion of the Hungarian sports institutions will become incapable of operation, which would obviously entail incalculable consequences.

ICELAND

SPORT LAWS IN ICELAND

Thorsteinn Einarsson

The Old Icelandic Republic was founded in the year 930, when it was agreed that a legislative assembly, known as the Althing, should meet every year at Thingvellir in the south-west of the country. The Althing also exercised judicial authority.

By way of preparation for the founding of this political institution, a man was sent to Norway in order to learn Norwegian law. He learned the laws of the Gulathing assembly in Norway, and recited them at the first meeting of the Althing in Iceland. These laws were written down in the years 1117-1118, but the original law code has not survived. Fragments of law codes have been preserved from the period of the Old Icelandic Republic, i.e., the period which ended when Iceland accepted the authority of the Norwegian crown in 1262. These consist of two manuscripts, the texts written in Icelandic. The laws they contain are for the most part derived from those that were approved in the year 930, and they preserve the spirit of old Germanic law.

When the Icelanders accepted the rule of the Norwegian king, they made a treaty with him. The Althing passed laws which were in force from 1271 to 1280. These were mostly based on Norwegian law, and when they came into force, many features of the Old Icelandic laws were set aside. For example, an executive was established, so that an individual who received a judgement in his favour no longer had the task of seeing the judgement enforced, and criminal cases became the concern of the state and not of the private individual. Blood feuds were outlawed, and the number of local assemblies was reduced from 24 to 12. These laws were revised and passed in an amended version, known as *Jónsbók*, in 1280. Some of the provisions of this law code are still in force in Iceland today.[1]

The reason I have presented you with all this ancient history is that in the early structure of the Icelandic state which was set up in the year 930, there was no executive branch of government. This fact had an effect on the upbringing of young people, who had practice in the use of weapons – swords, shields, spears and axes – and training in physical strength and stamina in order to be able to use them when necessary. In addition to this training, which was directed towards physical combat, there were games, some of which were played according to strict rules and traditions, so constituting physical training of a sporting nature. Competitions were held in these games, with the ordinary spectators acting as referees and judges. People who underwent physical training of this type were able to undertake the tasks which were later carried out by the executive. It was up to the individual to see to it that a judgement in his favour was executed, and to avenge his close relatives and stand guard over his family and his property. Up until the year 1006, anyone could be challenged to a duel by an opponent who lost a case at law. Duels were not fought to the death, but followed strict rules, and served as a sort of court of appeal. A separate court of appeal was set up when duelling was outlawed.

When people no longer had to be prepared to enforce judgements and stand up for their rights, and could call instead on the executive, it followed naturally that they ceased to be so concerned about their physical abilities, and so their physical prowess declined. The reduction of the number of local assemblies by 50% also meant less social mixing and therefore fewer opportunities for people to compete in sports.

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[1] *Jónsbók*. Ancient Icelandic Laws passed by the Althing in 1280. Ms of the Gl. Kgl. Samling in Copenhagen 32714 – to written ca 1363, XIII Chapter.

The Old Icelandic sagas, which were written in the period from the early 12th century down to about 1400, frequently mention games and sports. They make a clear distinction between the martial type of contest, in which the aim was to kill or main, and games and sports which were played for entertainment and as competitions.

The sporting tradition was so deeply ingrained in Icelandic life that in the section on personal liberties in the law code of 1281 there is a special provision referring to sports. Up to now the laws I have mentioned have not been specifically sports laws, but rather laws relating to the structure of the state. These laws encouraged the cultivation of physical skills, which people developed through the practice of games which developed into organised sports, and the conduct of these sports was regulated by the national laws on individual liberties.

Non man-made structures related to sports have survived from the period of the early republic (930-1262), but various place-names indicate where sports were practised. Bathing pools, where hot-spring water was used for bathing and the remains of steam baths have been found, bear witness to forms of physical culture. Various natural sites which were suitable for the practice of sports can be seen: ponds which froze at the beginning of winter and were used as rinks for the "old ball game" (hurling); pieces of flat grassy or sandy ground whose names indicate that wrestling matches were held there, and depressions which were closed off by walls of turf and stone so as to fill up to form swimming pools.

Sport laws as such were not to appear in Iceland until the end of 1939.

In the intervening period, covering nearly 7 centuries, many things happened to stimulate or stifle sports in Iceland. Most of these took the form of decrees issued by the church or by the Icelandic and Danish authorities.

I shall mention a few examples: in the period 1400-1500, the old sports competitions (*leikar*) changed into frivolous entertainment (*gledir*) with a small sporting element. These entertainments were banned by the authorities in the year 1700.

Danish laws specified that the pupils of Danish grammar schools should receive physical training in special premises with special equipment. Under this law, a gymnasium was built for the grammar school in Reykjavík in 1857 and teaching began under the direction of a Danish sports instructor. Both the gymnasium and the instructor were the first of their kind in Iceland.

In the years 1857-1869, a society functioned in an Icelandic town, whose members practised physical exercises, military-style marching, swordsmanship and shooting. It received the approval of the Danish authorities and was also funded by them.

In 1891, the Althing (Iceland's parliament) approved a budget including funding for repairing a swimming pool and the teaching of swimming. This funding was the first of its kind in any Icelandic budget.

In 1925, a law was passed authorising those local authorities which owned heated swimming pools to make swimming obligatory for teenagers and to require them to take swimming examinations.

In 1928, an act was passed on the building of an indoor swimming pool in Reykjavík.

The Regional Schools Act of 1929 provided for gymnastics and swimming, with obligatory examinations as in other subjects, in those schools.

In 1932, the Althing passed a law on qualifying examinations for teachers of physical education and swimming. A private school opened to prepare candidates, both men and women, for this examination.

In 1937, the Althing passed a revised Children's Education Act. Like its original version of 1907, this act contained no provision for sports. The Prime Minister at the time, who was also Minister of Education, was an active sportsman. His fellow club members and party colleagues accused him of having let down the ordinary people, who has been campaigning for sports teaching in the schools since the previous century, and the amateur sports clubs, which had been working for the establishment of modern sports facilities.

He appointed a 9-man committee to examine the position of physical education and sports in the country, and, if it considered it appropriate, to submit proposals to the government within one year on the best methods of encouraging sports.

After an extensive examination of the practice of sports in the schools and sports clubs and by individuals, public funding, legislation regarding physical education at various school levels and the nature of joint action in the field of sport, the committee concluded that legislation was called for. It drafted a bill for a Sports Act and presented it to the government, which approved it and presented it to the Iceland's parliament, the Althing. The bill became law in 1939.

[Two national associations were active in sports. One, the Icelandic Youth Association (UMFÍ), founded in 1907, brought together the youth clubs which were active in cultural matters, especially in the rural areas. It sent competitors to the 1908 Olympic Games. The other, the Icelandic Sports Federation (ÍSÍ), was founded in 1912, uniting the sports clubs in the towns, and it sent competitors to the Olympic Games in 1912 and 1936.

The bill proposed to give these two associations equal status, and it was opposed by the Icelandic Sports Federation. As a compromise, the Icelandic Sports Federation was made the supreme authority in sports contacts with other countries, and was in charge of compiling sports rules. In this form, the bill became law in 1939.]

For the following 40 years, the Sports Act was applied almost without amendment, though it was revised four times. Over the past ten years, however, the Act has been amended considerably.

The main changes involve funding, which has become the responsibility of the local authorities' association under an agreement between the authorities and the government, and provisions on school sports, which have been incorporated in the educational acts governing schooling at the various levels.

I will now give an account of the Act as it was before these amendments were made, and the legal implications it had for sports in Iceland.

The Sports Act was divided into six sections.

Section I covered the National Sports Council, which advised the Minister of Education and Culture on those sporting matters in which the government was involved. A State Superintendent of Sports and Physical Education was to be engaged to assist the government authorities and to serve the local authorities and the sports clubs in running sports activities, building sports facilities and monitoring sports education in the schools.

Under Section II of the Act, a Sports Fund was established, receiving money as part of the state budget or through other provisions made by the Althing. The Act provided for the following grants from the fund: 1) up to 40% of the cost of sports facilities established by the local authorities and the sports clubs and youth clubs; 2) a share of the operating costs of the sports clubs and youth clubs and their associations, and 3) the cost of consultant's services for the design of sports facilities.

Section III of the Act specified that sports should be part of the curriculum in all schools. It was made compulsory for all able-bodied children to learn to swim by the age of 14. In schools with direct access to a swimming pool, pupils have swimming as part of their timetable, while other schools are obliged to organise transport for pupils to attend swimming courses, expenses being paid by the Treasury. Pupils are to receive instruction in health care and the harmful effects of intoxicants and drugs.

Schools in local government areas with populations of 400 people or more, and all secondary schools, were to be provided with sports facilities under the Act. Section IV of the Act specified that all sports teaching was to be in the hands of specially qualified teachers, and no one was permitted to work as a sports teacher without completing a course of study at a recognised sports teachers' training college. The Act also provided for the holding of courses for coaches in sports clubs.

Under Section V of the Act, sports outside the school system were placed under the auspices of free enterprise in the form of the recognised sports and youth clubs, with funding provided in accordance with the Act. Sports competitions in the clubs are to be held in accordance with international rules.

Iceland was divided into sporting regions under the Act. All sports clubs within each area were to be united in regional associations. For the purpose of receiving grants and enjoying the services of the National Sports Council, clubs must belong to the regional associations and the Icelandic Sports Federation or the Icelandic Youth Association. Membership of these clubs does not depend on political allegiance or religious belief. Members pay subscriptions, and the clubs provide medical supervision for them.

The final section of the Act (Section VI) contains various provisions, e.g. that plots of land considered desirable for the building of sports facilities may be subject to compulsory purchase, that recognised clubs shall have priority access to school sports facilities, etc.

At the same time as the Sports Act was passed, the Althing passed an act on the financing of the Sports Fund through the operation of football pools. When this act was passed in a revised form in 1972, it included a provision for Lottó. Neither the football pools nor Lottó are now run to finance the Sports Fund directly; instead, their profits are paid to the national associations (the Icelandic Sports Federation and the Icelandic Youth Association) which distribute them to the clubs. Many of the clubs derive income from the sale of football pool coupons. Ten per cent of the profits from Lottó go to the National Association for the Disabled.

Iceland's football pools are currently being integrated in a common Nordic football pool, with Iceland, Sweden and Denmark already united in a single system.

In conclusion, the effects of the Sports Acts passed in 1939 by Iceland's parliament, the Althing, can be seen clearly in Icelandic society. More and more people engage in sports, the number and variety of sports facilities have increased and the health value of sports has ensured their position in people's daily life.

Developments since the passing of the Sports Act can be seen clearly from the following figures:

	1940	1982
Sports clubs	115	272
Regional associations	8	28
Types of sport played in Iceland	16	23
Special sport federations	0	20
Sports facilities (structures)	114	529
Proportion of school pupils receiving swimming teaching	15%	90%
Proportion of the population able to swim	5%	74%
	1954	1982
People engaged in organised sport	13,400	82,400

Iceland's Olympic Committee has been active since 1922.

"Sport for all", sports for disabled people and sports for old people were not catered for by special clubs in 1940, but by 1982 clubs had been established in these areas.

Additional information:

The modern Icelandic Republic was founded on 17th June, 1944.

Population of Iceland, 1st December 1941: 122,385
Population of Iceland, 1st December 1982: 235,453

NB: Law was passed by Althing in 1956 (nr. 22 27.12.), which banned boxing.

Sports Law

(submitted to the Althing at its 122nd Session, 1997-98)
enacted 12 June 1998

Article 1

In this Act, "sport" means any physical training intended to improve physical and mental prowess, health and fitness.

The Act does not apply to sports practised as part of the activities of health institutions or fitness centres.

Article 2

The main purpose of action by the state and municipalities in the area of sports shall be to promote opportunities for all Icelanders to practice sports under the most favourable conditions possible. Co-operation of the state and municipalities with the independent sports movement shall be based on the value of sports for pedagogical and preventive work.

Article 3

The Ministry of Education is responsible for sports to the extent that the state is involved. For this purpose, the Ministry shall gather information on the practice of sports in Iceland and on facilities for the practice of sports as well as promoting research in the field of sports.

Article 4

The Ministry for Education shall appoint a Sports Committee of five members. The Minister shall appoint the Chairman without nomination, one member nominated by the Executive Committee of the Icelandic Olympic and Sports Association, one member nominated by the Icelandic Youth Association, one member nominated by the Sports Instructors' Department of the Iceland Teachers' Training College. Alternate members shall be appointed in the same way. Committee decisions shall be taken by majority vote. The costs of the committee shall be paid out of the State Treasury.

The role of the Sports Committee is to advise the Ministry of Education on Sports affairs. The committee shall submit recommendations regarding allocations to sports in the state budget and on the appropriation of funds from the Sports Fund pursuant to Article 8.

Article 5

Sports activities outside schools shall be based on the voluntary activities of the general public.

The Icelandic Olympic and Sports Association is the supreme authority regarding the voluntary practice of sports in Iceland and regarding foreign relations of the sports movement. The Icelandic Youth Association is an independent, non-governmental organisation involved in sports.

Article 6

The country is divided into sports districts. The Icelandic Olympic and Sports Association and the Icelandic Youth Association are responsible for the division into sports district and alteration of boundaries.

Article 7

The construction of sports facilities in the interest of schools and for public use is the responsibility of the municipalities, unless otherwise provided by law.

Municipal authorities shall issue building grants to sports clubs and sports associations as decided in the municipal budgets.

Article 8

The Althing shall annually allocate funds to the Sports Fund for the promotion of sports in the country. The Sports Committee is responsible for the Sports Fund and shall submit recommendations to the Minister for Education regarding appropriations from the Fund, cf. Article 4.

Grants may be awarded from the fund for:

1. Special projects undertaken by sports clubs and their associations intended to improve conditions for the practice of sports;
2. Promotional and educational activities;
3. Sports research;
4. Projects covered by Article 13 hereof.

The Sports Fund may not undertake expenditures beyond its annual appropriation.

A regulation issued by the Minister for Sports on the recommendation of the Sports Committee may lay down conditions for grants from the Sports Fund and the form of applications and allocations.

Article 9

Appropriations from the State Treasury to the activities of national associations of athletes shall be determined by the Althing in the State Budget.

Article 10

Fund raising by sports associations through lotteries are subject to the decision of the Althing in the Budget Act.

Article 11

Sports shall be taught in all the primary and secondary schools in the country as further set out in legislation, regulations and curricula applicable to the schools in question.

All the children in the country shall be taught to swim unless exempted by a physician for health reasons.

Article 12

The state shall operate an academy responsible for the education of sports teachers pursuant to legislation on such activities.

Article 13

The Minister for Education may be a party to agreements on the establishment and operation of sports centres in co-operation with municipalities and sports associations provided that the services of the centres are intended for the benefit of the country as a whole. Financial participation by the state in such co-operation is subject to appropriations in the State Budget.

Article 14

The Minister for Education shall be responsible for establishing rules regarding safety measures in sports facilities, including supervision, and regarding sports implements and equipment.

Article 15

The Minister for Education may issue further provisions on the application of this Act in a regulation.

Article 16

The Act shall take effect immediately and replace the Sports Act No. 49/1956, as amended.

Commentary on the Legislative Bill

A bill on this same subject was submitted at the 121st legislative session, but debate was not concluded. The bill is now submitted once more, slightly altered.

The final version of this bill was prepared by the Ministry of Education based on the recommendations of a committee appointed by the Ministry of Education in 1992 to review the current sports legislation. The committee returned a draft bill along with a report in March of 1994. Account was also taken of the recommendations of a committee on the promotion of sports activities appointed by the Ministry of Education on the recommendation of the Althing on 16 May 1997; this committee returned its report in early December 1997.

The current sports legislation dates largely from 1956 (Act No. 49/1956) although some amendments have been made since that time, e.g. by Act No. 87/1989 on the division of responsibilities between state and municipalities. The 1956 legislation was based on the original Sports Act passed in 1940.

Sports activities are now carried out under totally different conditions from those of 40 years ago when the current legislation was enacted. The role of sports in the lives of the general public has grown in importance and so has the number of people involved in sports in one way or another. At the same time, the sports movement has become more organised and powerful and facilities for practising sports have improved greatly across the country. The introduction of television has in many ways created new conditions and new sources of revenue have appeared, e.g. in the form of pools and lotteries.

Sports activities outside schools are practised under the auspices of independent clubs when they are not practised on an individual basis. This was taken into account when the bill was drawn up. It is understood that the purpose of the legislation on sports is primarily to establish a formal framework for the role of government in promoting sports activities without interfering with the way in which the sports movement chooses to operate. Sports training in schools, like other school activities, naturally fall under the legislation on education.

The views outlined above have the result that the legislation visualised in this bill will be much less extensive and simpler than the current legislation.

Some of the main changes and innovations in the bill as compared to the current legislation are as follows:

- The provision on the sports representative in the Ministry of Education is removed although the Ministry remains responsible for sports matter on behalf of the state.
- Members of the sports committee are now five instead of three, and the role of the committee is changed somewhat.
- The role of the Sports Fund is widened and allocations of funds become the responsibility of the Minister for Education based on the recommendations of the Sports Committee.
- Provisions regarding the form and facilities of sports training in schools are deleted and reference made to legislation governing schools.

- It is understood that legislation will be enacted on authorisation for the state to participate in agreements on the establishment and operation of sports centres in co-operation with municipalities and sports associations, provided that the services of such centres are intended for the country as a whole.

- The Ministry of Education will be responsible for establishing rules on safety measures in sports facilities.

- Various special provisions regarding grants, e.g. regarding sports facilities, are removed, but authorisation granted for various conditions regarding grants to be set out in regulations.

ITALY

SPORT AND LEGISLATION IN ITALY

Compiled by the CONI – Italian National Committee
Documentation and Information Division
Rome, February 1997

1.1 DESCRIPTION OF THE PLACE HELD BY SPORT IN THE ITALIAN CONSTITUTION

Italian legislative bodies have always recognised and respected the principle of the autonomy of the sports system.

The law creating the CONI (1942) did not delegate to it an authority which had been embodied in the State, but rather recognised to the existing organisation of sport lead by the CONI, the role and functions it had since its origins (between the end of the last century and the beginning of this one).

The lack of references to sport in the Constitution of the Republic adopted after World War Two (1947) should not be interpreted in a negative sense but as a confirmation of the State's attitude in regards of the organising structure of sport, which is seen as an original and autonomous organism.

In the following years the State guaranteed to the CONI the sources of funding originating from sports results forecast competitions (1948) and confirmed its status as a Public Body.

The Constitution provides for the State's decentralisation over three levels: Regions, Provinces and Municipalities.

The process of attributing functions to Regional administrations was completed in the 1970's; among their various fields of competence were included those concerning the "promotion of recreational and sports activities".

Similar forms of jurisdiction have been recognised to the Municipalities and later on to the Provinces (each according to its own role), though, as well shall see further on, without affecting the CONI's functions.

Amongst the further elements of the Constitution favouring sport, we can mention *the freedom to associate*, which facilitates the development of sports clubs, and *the plurality of the judicial systems*, which allows for the existence of an autonomous judicial system of sport.

1.2 DESCRIPTION OF THE "FUNDAMENTAL LAW" ON THE SPORT

The law defining the organising structure of sports dates back to 1942 (16 February 1942, n.26), was subsequently adjusted a number of times (1943, 1947, 1951, 1959) and was followed by an implementing regulation (28 March 1986, n. 157 and by the recent Law n. 138, promulgated on the 16th January, 1992). This law basically concerns the CONI and the Federations.

The CONI's duties are "the organisation and strengthening of national sport" and "its orientation towards athletic improvement" (art. 2 of Law 426/1942).

The National Sports Federations are CONI organs and the CONI itself can decide the creation of new Sports Federations of their exclusion.

Thus the CONI has three simultaneous facets:

- it is a Public non-governmental Body (the President, the Executive Board and the General Secretary are chosen by the National Council composed by the Presidents of the Federations and the Italian Members of the International Olympic Committee);
- it is the Federation of the Sports Federations (i.e a Confederation of Sports);
- it is the National Olympic Committee recognised by the IOC.

1.3 OTHER LAWS

Other laws relevant to the organisation of sport concern:

- the SPORTASS, Provident Fund for the Insurance of Sports people (Laws of 1934 and 1978);
- the CONI's domain over the forecast competitions linked to the sports events it organises (Legislative Decree of 14 April 1948, n. 496 and subsequent amendments and integration); CONI's privileges were recently increased so as to also include the bets with fixed stakes and with the tote (Law N. 549, 28th December, 1995).
- the Institute for Spors Credit (Law of 24 December 1957, n. 1295 and subsequent amendments);
- health care in relation to sports activities (Law of 25 October 1971, n. 1099).
- professional sport (Law of 23 March 1981, n. 91); and Decree Law n. 485, 20th September, 1996).
- extraordinary funding programmes for sports facilities (Law of 22 May 1987, n. 65 and 21 December 1989, n. 289).

The main norms regulating the administrative activities of Regions and Local Authorities (with significant consequences on the sports sector) are contained in different Decrees of the President of the Republic (such as the Decree of 24 July 1977, n. 616), and in the Law of 8 June 1990, n. 142.

From the overall body of the norms we have mentioned, we can identify two sufficiently distinct and complementary areas:

a) the organisation of competitive activities at all levels and the promotional activities related to them (a recognised duty of the CONI and of the related sports bodies);
b) the promotion of recreational and sports activities. This field of intervention is within the domain of the authority of Regions and Municipalities, act in the sports sector for an improved co-ordination throughout their territory.

As the "organisation" of sports activities is a CONI responsibility, the "promotion" undertaken by Regions, Provinces and Municipalities concerns administrative functions and the fulfilment of the necessary conditions for all citizens to be able to dedicate themselves to sport in all its different forms.

As the Regions have legislative jurisdiction over their territory, at each local level norms relating to sport must be integrated with the laws issued by each Region (more precisely, we have to consider 15 regions with ordinary constitutions, 5 regions with special constitutions and 2 autonomous provinces).

1.4 LEGISLATIVE MEASURES IN SPECIFIC SPORTS SECTORS

a) Health care in sports and anti-doping regulations

The first legislative measure pertaining to the "health care in sports activities" dates back to 1950 (Law of 28 December 1950, n.1055) and assigned this responsibility to the Italian Sports Medicine Federation (Federazione Medico-sportiva Italiana), which is affiliated to the CONI, a CONI organ. In 1960, in concomitance with the Rome Olympic Games, the Federation began carrying out anti-doping controls.

A second measure (Law of 25 October 1971, n. 1099) with specific anti-doping ends subsequently replaced the first one.

The athletes "who make use of substances which may prove to be harmful to their health", so as to artificially modify their natural energies, were subjected to penal sanctions.

Controls were to be carried out by the State on the basis of a clearly specified procedure. But for various reasons these provisions were difficult to be applied.

Almost simultaneously, in fact, began the planned attribution to the Regions of administrative responsibilities, including the health care in sports activities (as of 1 April 1972) and in many cases the Regions were unable to offer the necessary services.

Other dispositions on the functioning of health coverage and the institution of the National Health Service (Law of 23 December 1978 n.833) intervened. It was clarified (1979) that health controls were to be carried out on the basis of formalities set by the Regions in agreement with the CONI and on the basis of general criteria set by the Ministry of Health (Ministero della Sanita).

At the same time, a 1981 measure de-penalised many offences, amongst which those covered by Law 1099/1971, and thus violations relative to doping were no longer considered offences and were only subject to administrative sanctions, lessening the psychological pressure of anti-doping controls.

In the following years general criteria were issued for the health coverage of competitive sports activity (Decree of the Minister of Health of 18 February 1982) and of non-competitive activity (Decree of the Minister of Health of 28 February 1983). Some criteria concern the professional athletes (Ministerial Decree of March 13th, 1995) carrying on the following sport activities: football, basketball, cycling, golf, boxing and motorcycling.

Many regions issued their own regulations not only in terms of health coverage but also in regards of anti-doping controls.

Still, all financial and organisational difficulties had not been overcome.

In 1988 (Law of 11 March 1988, n. 67) a national fund for anti-doping initiatives was created, but the disposition was never actually carried out.

On its own part, the Italian Sports Medicine Federation, has always carried out the anti-doping controls within its possibilities and continues to do so (it carried out more than 10 000 doping examinations in 1995).

In the 1988 the CONI has issued a directive, for all the National Sports Federations, aimed at standardising Federation norms relative to prohibited substances and sports sanctions as indicated by the IOC. Furthermore, the CONI has undersigned the international "multilateral" agreement produced by eleven national sports organisations against doping which came into force on 1 January 1990.

b) Violence

So as to hinder the violent phenomena arising in the course of sports events, the Law of 13 December 1989, n. 401, declares that "whoever upsets the normal course of a competitive competition" is punished with a fine (art.7), unless the occurrence is an offence, in which case it is punished penalty.

The police may prevent access to sports events. This may occur in regards of people who are carrying "improper weapons", who have actively participated in episodes of violence linked to sports events of who have incited others, with shouts or written messages, to act violently (art. 6).

In the event of offences committed in such a circumstance, the judges may forbid the culprit from entering places where sports competitions are held (art. 8).

The same law provides a reference for fraud in sports competitions and illegal games or gambling.

The Law n. 45, promulgated on February 22nd, 1995, led to even more rigorous provisions, both as for prevention and as for repression, particularly as for the measures to actually prevent violent supporters from approaching the venues where sports events take place.

c) Safety norms in sports facilities

The safety regulations as for the building and the management of sports facilities are dictated by the Decree issued on August 25th, 1989 by the Italian Minister of the Interior.

d) Prize contests, forecasts and lotteries in the sports sector

The Decree n. 496 of 14 April 1948 (Art.6) states that the organisation of betting linked to sports events organised or taking place under the control of the CONI and of the UNIRE is reserved to these bodies, which can then use the income remaining after they have paid all winnings and paid to the State a specific "lottery tax".

This method of financing replaces, in some way, the direct support of the government. We can distinguish the following cases.

i. The CONI, the TOTOCALCIO and TOTOGOL

The CONI is entrusted with the organisation and the strengthening of sport in Italy and thus uses its funds to support all Sports Federations and recognised sports organisations. The CONI administers the Totocalcio and Totogol (a new way of playing introduced in 1994).

ii. The UNIRE and the horse-racing bets

The purpose of the UNIRE is to promote the improvement of equine races in terms of all of their uses and thus it's field of action is in all cases related to horses. The UNIRE supervises bets on horse-races and uses the relevant income.

iii. National lotteries

A small number of national lotteries is organised along the year. Some of them are linked to sports specific events. They have an impact through the advertising for each event, but the final revenues do not go to the national sport bodies.

iii. Local lotteries

All local lotteries organised by sports clubs contribute to the budgets of these clubs.

THE TOTOCALCIO

The Totocalcio is the most important and known "forecast bet" in sport. The results of 13 football matches are to be forecasted using the 1-x-2 signs.

The whole management is administered by the CONI. The present subdivision of the total income is rather complex, but is derived from the basic one used in 1.1.1997.

TOTOCALCIO BREAKDOWN

CONI pays out to the winners 38% of the total income. The Institute for Sports Credit receives 3%, which is used for financing sports facilities, and the remaining 59% is subdivided as follows:

- the State receives a quota of 26.80%,
- the CONI keeps a proportion of 32.20% which includes the 7% due for covering the running costs of the games.

DISTRIBUTION OF THE PRICE OF POOL COLUMNS: CURRENT STAKE EQUAL TO 800 ITALIAN LIRE (two columns are the minimum requested for the game). It is so divided:

800 Italian lire: gross price of a pool column

100 Italian lire: additional fixed due
    35 Italian lire: jackpot's increase
    65 Italian lire to the Government as a Single tax;

700 Italian lire: net unit stake;
    63 Italian lire: premium to the people working in pools offices (equal to 7.88% of the gross unit stake, that is to 9% of the net unit stake).
    637 Italian lire: to be distributed as follows:

Jackpot (38%)	242.06 Italian lire
CONI (25.20%)	160.52 Italian lire
CONI (7%, running costs)	44.59 Italian lire
Government, single tax (26.80%)	170.72 Italian lire
Institute for Sports Credit (3%)	19.11 Italian lire

Total for the Jackpot:	**242.06 + 35.00 Italian lire = 277.06 Italian lire**
Total for CONI:	**160.52 + 44.59 Italian lire = 205.11 Italian lire**
Total for Government:	**170.72 + 65.00 Italian lire = 235.72 Italian lire**

TOTOGOL

Totogol allows the win in three categories of prizes (8, 7 and 6 points).

Choosing among the 30 football matches listed on the pools coupon, people have to forecast those that will end with most goals.

The minimum stake is the same for all 3 categories: 2 columns for 1600 Italian lire.

LITHUANIA

LAWS THAT HAVE AN EFFECT ON SPORTS IN LITHUANIA

Prepared by Mr Kestutis Virketis,
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The Lithuanian State went through a complicated and difficult historic period in the 20th century. In order to correctly understand and evaluate the present legal regulation of sports in Lithuania, a brief review should be made of when and in what way corresponding laws were adopted.

The Independent State of Lithuania was re-established by the 16 February 1918 Act. On 2 November 1918, the Council of the State of Lithuania adopted the basic regulations of the Provisional Constitution of the Lithuanian State in which freedom of assembly and societies was guaranteed. The first law which had an effect on regulating sports was the Law on Societies adopted on 10 October 1919. The Law established basic requirements as to who has the right to found a society (no less than 5 people), in what way the by-laws of the society have to be prepared, provided for the societies to be registered in the register. After the activity of different sports societies have expanded, the Law on Physical Culture was adopted on 15 July 1932. It was the principal law on the basis of which a number of laws regulating sports were adopted later. The law established the state system of organising sports - the Palace of Physical Culture under the jurisdiction of the Ministry of Education was founded. The Director of the Palace was appointed by the President of the Republic. The Palace had wide-ranging rights - to establish and manage sports grounds, gymnasiums, to issue licenses to engage in physical culture practice, to confirm the by-laws of physical culture organisations (functioning physical culture organisations had to register themselves within three months in the procedure established by that law). Also, the issue of financing sports was settled. A new wording of the Law on Entertainment Tax came into force on 1 August 1932, according to which, 20 per cent of the income received from that tax was allotted to the Palace of Physical Culture (from theatre, concert, cinema tickets, as well as tickets to the places of entertainment, etc.). Practically, the system of legal regulation of sports was finished to be created within several following years. The Instruction of the organisational order of Physical Culture was adopted on 16 January 1935. It provided for establishing six sports unions - the union of ball games, of track-and-field and heavy athletics, of horse sports, etc. The procedure of functioning of sports societies, their management and functions were established. Regulations to manage and register Physical Culture organisations were adopted on 22 December 1937. They provided for dividing Physical Culture organisations into the organisations of gymnastics, competitive sports, entertainment sports and the organisations of science of body building, development and training. On 20 March 1936, the Statute of the State Physical Culture Symbol was confirmed; on 28 December 1937, the Statute of the National Olympiad was confirmed.

Unfortunately, in 1940, this active work was interrupted for a period of fifty years. During all that time laws of a foreign country were applied in Lithuania. Regulating sports by means of laws was substituted by regulating sports by means of the resolutions of the Central Committee of the Communist Party and the Council of Ministers concerning further development of a mass character of physical culture; the regulations of a socialist state industrial enterprise were adapted to state sports and entertainment enterprises and so on.

By the 11 March 1990 Act on the Re-establishment of the Independent State of Lithuania and on the basis of the results of the 9 February Plebiscite, which confirmed that the people of Lithuania did not reconcile themselves to the jurisdiction of a foreign state imposed by force and sought to recover freedom and justice by peaceful democratic means, the creation of the national legal system of Lithuania was pursued further.

Since the middle of 1990, the period of creating new legal acts has started. On 8 June 1990, the Resolution of the Government of the Republic of Lithuania "Concerning Principal Functions and Organisational Issues of the Department of Physical Culture and Sports under the Government of the Republic of Lithuania" was adopted. It was the first step in re-establishing the national system of sports management. The Department was commissioned to establish priority trends of developing physical culture and sports, to draw up state programmes and co-ordinate their implementation, represent the Republic of Lithuania in interstate relations in the sphere of physical culture and sports. On 17 November 1992, the resolution of the Government of the Republic of Lithuania "Concerning the Procedure of Registering Sports Federations (Unions, Associations, Societies)" was adopted. On 9 August 1991, by decree of the Government of the Republic of Lithuania the Department of Physical Culture was commissioned to prepare the Regulations of the Olympic Centre of the Republic of Lithuania and the Public Sports Club, to put forth proposals concerning handing the property of sports bases and any other kind of property over to local self-governments or use it for supporting sports clubs being established which were responsible for training best Lithuanian sportsmen for participating in official international contests.

With practical experience in organising sports gradually accumulating, the Lithuanian Sports Congress held on 3 November 1993, discussed and approved of the basic principles of the law on physical culture and sports. It was stated that, practically, at that time there was no law devoted directly to regulating physical culture and sports. The issues of physical culture and sports were mentioned only in the abstract and in passing in some of the laws - the Law on Education; the Law on Social Integration of the Disabled; the Law on the Fundamentals of Local Self-government.

On the initiative of the Department of Physical Culture and Sports the Republic of Lithuanian Law on Physical Culture and Sports was prepared and adopted on 20 December 1995. It was this law that formed the basis of legal regulation of sports in Lithuania. It was a legal act of large scope consisting of nine chapters and 53 articles. The essential novelty of the act consisted in that it legalised professional sports and presented the agreement (contract) of sports activity in minute detail. The following things are to be specified in the agreement: the sports organisation within which the sportsman engages in his/her activity; the sportsman's functions; the commitments of the sportsman to follow the established rules and other regulations of his/her club as well as the association, society, the federation of the branch of sports to which the club belongs; the sportsman's salary; the conditions of sportsman's health insurance; the procedure of compensating for the damage done to the sportsman's health during the time of preparing for competitions and during the competitions; the term of the agreement; the liabilities of the parties in the case of violating or non-fulfilling their obligations; the studying conditions for sportsmen who are under age.

Mutual liabilities of the parties for non-fulfilment of their obligations provided for in the agreement are established on the basis of the regulations of the Law. The agreement on sports activity can provide for other provisions in case they are not at variance with the laws. Adult professional sportsmen conclude the agreements themselves or through their authorised persons, sportsmen who are under age - beginning with the age of 15, conclude agreements having a written consent of their parents or legal representatives of the child. Agreements with professional sportsmen who are under 15 are concluded in their name by their parents or legal representatives of the child.

The present Law established the conception of a professional sports club. This is a legal person providing financial support for training of sportsmen for contests and their participation in contests, organising sports events, paying salaries to professional sportsmen according to the agreements of sports activities concluded with them and receiving income from the activity of the sportsmen representing their clubs or from any other activity established in the regulations.

The professional sportsman in Lithuania has the right to move from one professional sports club to another or to a foreign club only after the term of the agreement of the sports activity has expired and the obligations of the sportsman provided for in the agreement have been fulfilled. In case the professional sportsman wants to move to another Lithuanian Professional Sports Club or to a sports club of another country before the term of the agreement has expired or the obligations of the sportsman provided for in the agreement have been fulfilled, the change of the club is allowed only in case the sports club which allows him/her to leave it and the sports club which is accepting him/her agree upon it.

The regulations for professional sportsmen to move from one Lithuanian sports club to another professional sports club or to the sports club of another state are established:

1) in case the professional sportsman moves from one sports club to another one belonging to the same club association (league, union), - by the club association (league, union);
2) in case the professional sportsman moves from the sports club of one association (league, union) to the sports club belonging to another association (league, union), - by the federation of the same branch of sports;
3) in case the professional sportsman moves from the Lithuanian sports club to a sports club of another country or a sportsman from a sports club of another country moves to a Lithuanian sports club, - by the regulations of international federation of that branch of sports, an in case the regulations do not exist, by a mutual agreement between the clubs.

The Law in Physical Culture and Sports presents a rather detailed evaluation of the system of management of physical culture and sports in Lithuania. A special state institution - the Department of Physical Culture and Sports under the Government of the Republic of Lithuania draws up, co-ordinates and controls programs of developing physical culture and sports, puts to use the funds from the state budget which are allocated to physical culture and sports; organises the system of sports competitions financed by the funds from the state and municipal budgets, concerns itself with scientific research work, prepares and publishes scientific methodological literature on the issues of physical culture and sports; in co-operation with the Ministry of Education, federations of corresponding branches of sports and scientific institutions engages itself in the analysis of the need for specialists in physical culture and sports, their training and professional development; issues licenses to sports coaches, decides the issues of terminating them before their expire date; issues licenses to establish sports-biased schools; represents the Republic of Lithuania in co-operating with other countries in the field of physical culture and sports.

The present law establishes the role the Ministry of Education and Science, the district manager, and the self-government in the field of physical culture and sports. The Law provides for compulsory physical education in educational institutions (comprehensive schools, high schools) and higher schools - no less than three hours a week.

The sports club is the main sports institution which unites people and sportsmen for physical activity, healthy way of thinking, developing and popularising physical culture and sports. According to the present Law the sports club is a sports organisation which has the rights of a legal person and which is formed in the procedure established by laws and other legal acts. Amateur and professional sports clubs can be established. Amateur sports clubs are established on the basis of the

Republic of Lithuania Law on Public Organisations. They base their activity on the regulations registered in the procedure established by the law.

One of the main problems which remained unsolved after the mentioned law has been adopted is that no definite criteria were established for differentiating a sports organisation from other organisations, no special register for this purpose has been created and its management has not been provided for.

According to the said law sports organisations are sports clubs, sports schools, sports centres, sports bases, federations of different branches of sports, societies and other organisations and institutions which have the right of a legal person and are engaged in the activity of physical culture and sports and which create conditions to practice physical culture and sports, train sportsmen, organise sports contests and other physical culture and sports events.

Sports organisations have the right, in the procedure established by the law, to unite themselves into public, non-profit sports organisations, as well as to found the professional sports organisations and participate in their activity.

In this way, the issue of regulating sports organisations was left to be dealt with in other specialised laws. This creates certain difficulties in case tax privileges are to be applied to sports organisations in practice, because any public organisation or even an enterprise can make use of the status of a sports organisation. Apart from establishing the competence of separate bodies, the law established the state's obligation to finance physical culture and sports, scientific research work carried out in this sphere, take charge of the construction of physical culture and sports structures and devices, their material technical state, organise training of physical culture and sports specialists, their professional development, encourage people to take care of their health and develop a healthy way of thinking.

The present establishes that no means and measures that are forbidden to be employed in the documents adopted by the international or Lithuanian federations of different branches of sports, societies and associations to achieve results in sports can be made use of. Coaches, other employees and persons working in the filed of physical culture and sports have no right to carry out or issue any instructions which can do harm to the health of people engaged in physical culture and sports, they have no right to issue instructions violating moral norms. Persons who have violated these requirements are responsible in the procedure established by the law.

Sportsmen are forbidden to use, and physicians, coaches and other persons are forbidden to administer, stimulate and make sportsmen take, doping substances or use methods banned by the Medical Commission of the International Olympic Committee and international federations of different branches of sports. Dope is also forbidden to be administered to race horses.

A commission set up by the Government of the Republic of Lithuania and international organisations which have corresponding authorisation exercise control over doping and its methods in the Republic of Lithuania. Sanctions provided for by international sports organisations and the Lithuanian sports federations (associations, societies) are applied to people who took, encouraged or made sportsmen take dope or apply its methods.

The Law regulates the property of sports organisations. Sports organisations can possess any property belonging to them by the right of ownership, the possession of which is not forbidden by the Republic of Lithuania laws. The name and the surname of a sportsman, his picture, signature or other symbols of that sportsman are allowed to be used for advertising consumer goods, products or services providing the sportsman gives his consent in writing.

To use the names of sports teams, their pictures or other symbols of the sports team or the national team for advertising consumer goods, products or services is allowed only with a written consent of the sports organisations which formed that sports team. Provided this is done without the sportsman's consent, the sportsman or the sports organisation, which has formed the sports team, has the right to appeal to court in the procedure established by the Law concerning the compensation for the harm done to them.

Thus, after the law on Physical Culture and Sport had been adopted, the first stage of a legal regulation of sports was completed. However, it did not take long for the gaps in legal regulation of sports to come to light. The status of the sports organisation became one of the main issues. Organisations of the most varied nature were started to be established. Sports organisation which had especially strong club teams and wished to develop professional sports, established joint-stock companies. According to the laws of the Republic of Lithuania, these companies belong to one type of enterprises and their activity is regulated by the Company law. A joint-stock company is a non-profit enterprise of limited liability, its authorised capital may not be less than 10000 litas, and it must limit the number of its shareholders to 50. The general meeting of shareholders, the board and the management are governing bodies of the company. Joint-stock companies should be registered in the Register of Enterprises of the Republic of Lithuania, the Register of which is the Department of Statistics at the Government of Lithuania.

Other sport organisations which did not engage in economic-commercial activity, registered themselves as public organisations. Their status is regulated by the Law of Public Organisations. A public organisation shall be a voluntary association (union, society, foundation, association etc.) of citizens formed in order to satisfy and implement the common needs and goals of its members. A public organisation is a legal person which shall be held liable for its obligations by way of all of the property in its possession. State institutions and officials, political parties and political organisation, as well as other organisations and persons shall be prohibited to interfere with the activities of public organisations. The Ministry of Justice shall register the public organisation bye-laws, and in case the activity of the public organisation comprises the territory of one region or city, its bye-laws shall be registered by the executive institution of the self-government.

Other sports organisations function according to the Law of Associations, the Law of Public Enterprises etc. Such a versatile status of sport organisations, different laws regulating their activity, different registers in which these sports organisations are registered, make the accounting of these organisations, the application of tax privileges to them and their organisational management really complicated. At present is an urgent need to establish a special register of sport organisations, with the Department of Physical Culture and Sports at the Government of the Republic of Lithuania being its Register. This would make it possible to settle the following issues related to sport: financing sports, distributing funds between separate sports organisations, supporting them, applying tax privileges to these organisations, etc.

It goes without saying that specific normative acts, related to the sports activity in one way or another, are being created. The procedure of exercising control over the sex of athletes of the Lithuanian national sport teams and that of supervising athletes during sporting events etc. has been established.

It can be stated that the fundamentals of the legal regulations of sports in the Republic of Lithuania have already been created. At present the issue of harmonising these legal acts with the legal regulation norms of the Europe union is especially urgent, it is necessary to bridge gaps and eliminate contradictions existing in this sphere. Much is to be accomplished in the field of developing the legal regulation of professional sports.

LUXEMBOURG

SPORT AND NATIONAL LEGISLATION IN LUXEMBOURG

November 1996

I. INTRODUCTION

Sport has now become a social phenomenon involving an impressive number of people. This is the result of private initiatives, encouraging specific institutions to be set up and a sporting community to develop, one that has become increasingly organised, created its own hierarchy and jealously guards its independence.

Naturally, the Grand Duchy of Luxembourg has not been excluded from these developments. Impelled by the schools of gymnastic science hailing from Britain, Germany, France and Sweden, eventually embroiling physical education in an all-out war of methods, the country acquired a taste for these new forms of physical activity, rightly seen as the genuine forerunners of modern sport.

The first gymnastics association was founded in 1849, marking the beginning of organised sport in Luxembourg. The first sports federation was set up in 1899 under the name of the Union of Luxembourg Gymnastics Associations (Union des Sociétés Luxembourgeoises de Gymnastique).

The National Luxembourg Olympic Committee was founded in 1912, and at that time confined itself mainly to defending and propagating the Olympic ideal. In 1931, it was renamed the Luxembourg Olympic Committee (Comité Olympique Luxembourgeois) and took the form of a non-profit-making association. It did not become the Comité Olympique et *Sportif* Luxembourgeois (=COSL) or Luxembourg Olympic and *Sports* Committee until 1974; it is the only umbrella body for all national sports or sport-oriented federations and associations. Since then, in addition to the conventional tasks of a national Olympic committee, it has also taken on those of a central body for private sports movements. This has made the COSL the public authorities' main partner.

Urged on by the concept of public interest, the state later began to take a closer interest in physical and sporting activities. In this regard 1945 is a key date. That year saw the passing of a Grand-Ducal decree legally recognising the sports movement, with emphasis on the importance and benefits of physical education, as well as the introduction of a whole range of instruments and related measures, vital for carrying out a policy of sports promotion (Grand-Ducal Decree of 1945).

This decree was very quickly overtaken by a sports boom. But it was not replaced until 30 years later by the Act of 26 March 1976 on Physical Education and Sport, which in a way provided the framework for a comprehensive policy on physical education and sport.

Its detailed application was laid down either in Grand-Ducal regulations or in ministerial regulations, depending on importance and scope. The General Principles Act of 1976 gave Luxembourg a modern legislative instrument to cope with a thriving and expanding sports movement.

It should be pointed out that the content of that Act indirectly and partly reflected the resolutions contained in the European Sports Charter of 1975, since the authors broadly based the Act on that Charter. In Rhodes, in 1992, at the Conference of Ministers responsible for Sport, bearing in mind the development of a "sporting culture" in Europe, the "closer union" between the countries of the European Community and the political, economic and social changes that had occurred in Europe since 1975, the Council of Europe overhauled the conceptual and structural aspects of the Charter.

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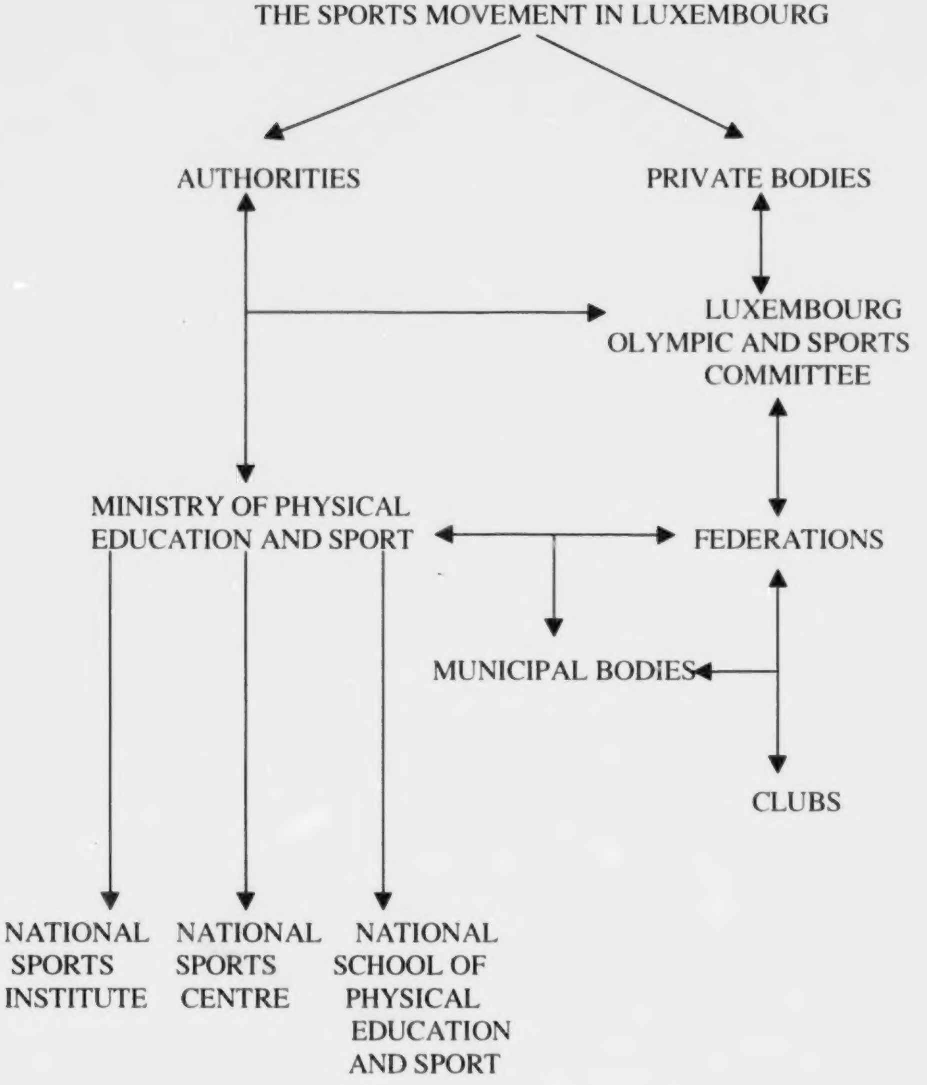
The new Charter carries an ever-topical message, which is clearly no longer true of the 1976 Sports Act. The wording of that act is particularly simple and clear, setting rules only for general ideas while allowing considerable latitude for the implementing measures which will translate into practical and functional reality the substance of the basic text. The sports environment, however, has changed (ecology, sporting ethics, etc), as has its framework (professionalisation, commercialisation, growth in the number and diversity of sports professions etc), and its functions have become more varied (sport as leisure, sport for health etc). This all makes the current sports legislation now seem in many respects archaic, even moralistic and naïve, and appearing to have exhausted every possibility of adapting to current needs.

The Minister of Sport has, therefore, taken the initiative of subjecting the 1976 Act to a complete review in order to improve an instrument which, it goes without saying, was not intended to straitjacket the sporting movement but to serve sport. A working party, comprising representatives of the Ministry of Sport, the Olympic and Sports Committee and the Higher Council for Physical Education and Sport, has been entrusted with the task of preparing a new Act tailored not only to current needs but also to medium-term developments in sport.

II. ORGANISATION CHART OF CURRENT SPORTS BODIES IN LUXEMBOURG


THE SPORTS MOVEMENT IN LUXEMBOURG
AUTHORITIES
PRIVATE BODIES
LUXEMBOURG OLYMPIC AND SPORTS COMMITTEE
MINISTRY OF PHYSICAL EDUCATION AND SPORT
FEDERATIONS
MUNICIPAL BODIES
CLUBS
NATIONAL SPORTS INSTITUTE
NATIONAL SPORTS CENTRE
NATIONAL SCHOOL OF PHYSICAL EDUCATION AND SPORT

National Committee for the Fight against Doping in Sport	Luxembourg Sport Arbitration Board

III. SPORTS ORGANISATION AND STRUCTURES

A. The authorities

The Constitution of the Grand Duchy of Luxembourg dictates no general principles in sports policy matters. As was explained in the introduction, in 1976 the state approved a General Principles Act setting out the main thrust of the subsidiary role which it is supposed to play in relation to the development of the country's sporting movements. Since then a whole range of ministerial and Grand-Ducal regulations have been passed, specifying what public action should be taken. On 29 November 1988, an Act on the organisation of the administrative structure of the EPS (Ministry of Physical Education and Sport) was passed. It was intended to increase the transparency of operational and management processes in the various departments.

As far as state action is concerned, the administrative bodies playing a leading role in sports policy mainly belong to the Ministry of Physical Education and Sport (MEPS). It may be supported, when necessary, by other ministries, such as the Ministry of Education - for school sport, Transport - for sport involving aeronautics, automobiles, cycles and motor-cycles, Public Works - for the construction and maintenance of state facilities, Law Enforcement - for sport in the army, Tourism - for recreational sports activities, Social Security - for sports accidents, Health - for preventive medicine, plus Youth and the Environment.

There is a Parliamentary Committee on Youth and Sport, with members from all political groups. Its main task is to give its opinion on bills and related regulations, major sports infrastructure schemes to be state-run and, above all, sports policies.

The administration of and responsibility for sport are entrusted to the MEPS and supervised by a Government Commissioner for Physical Education and Sport. The MEPS carries out a wide variety of activities.

The MEPS receives state budget funds yearly and gives support funding in the form of grants (contributions to administrative, management and operating expenses) to sports federations and sports clubs. It also takes part in projects by municipalities, associations of municipalities and federations to improve the country's sports infrastructure and helps to pay the salaries of national sports coaches employed on a full-time or part-time basis.

In respect of leisure sport (defined as "physical activity of a sporting nature practised mainly as recreation") the MEPS - or its "leisure sport department" - performs promotional and support tasks, mainly translated into practice as information campaigns, sports festivals and various types of promotional activity. Via the Ecole Nationale de l'EPS (=ENEPS - National School of Physical Education and Sport), it offers training courses for sports instructors and coaches. As for infrastructure, cycle-tracks, fitness trails and footpaths have been laid out with the help of the MEPS.

Regular compulsory medical examinations for nearly all registered sportspersons are carried out by a network of sports medical centres throughout the country (Grand-Ducal Regulation of 26 August 1980 on sports medical checks for active registered members of officially recognised sports federations).

At the Institut National des Sports (INS - National Sports Institute), the state has recently provided a new specialised sports medical centre for top-level athletes. It is intended to make athletes' preparation more efficient and to detect over-training syndromes.

Following consultation of the central sports body, the MEPS grants special sports leave under arrangements set out in the Grand-Ducal Regulation of 30 April 1991. This special leave may be granted to leading sportsmen, support staff for them, as well as umpires and referees taking part in the Olympic Games and world or European competitions held by or in conjunction with international federations, reserved for national teams or squads.

Leading sportsmen and their support staff may also be granted special sports leave in order to take part in the final qualifying stages of these competitions or preparatory training.

Sports leave may also be granted to technical and administrative managers working on a voluntary basis for the Luxembourg Olympic and Sports Committee or an officially recognised sports federation, if they have been nominated by the body or federation in question to take part at international or European level on their behalf in meetings, refresher courses or other events.

This sports leave is limited to 12 working days per annum and per beneficiary. In exceptional circumstances the government may waive this limit, on a reasoned proposal by the Minister of Sport. For example, certain athletes have been granted up to 60 days' sports leave in order to prepare for and take part in the Olympic Games.

The following bodies operate under the MEPS:

The NS, which is required to make available its sports and accommodation infrastructures available to sports bodies for training courses and sessions and for holding the training classes given by the National School of Physical Education and Sport (ENEPS).

The ENEPS, whose task is to train, retrain and offer theoretical and practical refresher courses to anyone involved in sport (Grand-Ducal Regulations of 16 January 1990 on the restructuring of training courses offered by the ENEPS) with the exception of schoolteachers, who are trained at the Institut Supérieur d'Etudes et de Recherches Pédagogiques (ISERP - Higher Institute of Educational Studies and Research). The ENEPS is also responsible for setting up and running a documentation service and providing teaching materials, developing and maintaining contacts and exchanges with similar institutions abroad and holding colloquies and congresses on training-related issues.

Since 1989, the ENEPS has successfully run training centres in various sports disciplines aimed at young talented sportspersons selected by the federations to help them with sport itself as well as with education and training and in medical and psycho-social matters. The aim of these centres is to offer the best performers extra training, tailored to their age, without their schooling suffering as a result.

-The Swimming Centre, with an Olympic pool

A multi-sport facility is to be added under the project to build a National Sports and Arts Centre, as authorised by the Act of 2 May 1996. This centre will be state-run.

The governmental administration of sport also involves four advisory and consultation bodies:

a. The Higher Council for Physical Education and Sport (CSEPS - Conseil Supérieur de l'EPS) whose organisation and operation are determined by Grand-Ducal Regulation of 9 May 1996. Its task is to express opinions on questions submitted to it by the minister. It may also make proposals and suggestions on its own initiative. The CSEPS has standing committees such as the Finance Committee, the Sports Leave Committee and the Leisure Sport Committee. Working parties may also be set up, on the Council's initiative, to consider given issues.

The CSEPS comprises representatives of the various ministerial departments concerned, representatives of the COSL, school-related sport and a representative of the medical profession.

b. The Interdepartmental Sport Equipment Board (Ministerial Regulation of 21 March 1990) has the task of advising on sports amenity projects to be carried out by the state, municipalities, intermunicipal associations and federations. It considers sports equipment projects from the standpoint of sport and educational needs, location, design and planning as well as cost. The Board submits proposals to the EPS Minister on the amount of financial aid to be allocated, taking into account both the subsidisable cost and the local, regional or national value of the scheme.

c. The ENEPS Consultative Board (Grand-Ducal Regulation of 30 April 1995) helps to define the school's general guidelines and helps to plan training courses and draft the regulations governing them. It comprises representatives of the Ministry of Physical Education and Sport and the Ministry of Education, central body delegates, teaching staff and the sport associations concerned.

d. The Order Council (Conseil de l'Ordre) makes proposals, through the Ministry of Physical Education and Sport, to the Grand Duke for honours to be conferred on persons who have consistently rendered outstanding services to the cause of physical education and sport; a national order, the Medal of Sporting Merit (Grand-Ducal Regulation of 23 April 1979), is awarded in such cases.

B. Private bodies

The COSL (Luxembourg Olympic and Sports Committee) is the national representative body which, under Section 7 of the Act of 26 March 1976, the Government decided to regard as the central body representing the entire private sports sector. The COSL, currently with 54 federations or associations as active members, is governed by the provisions of the Act of 21 April 1928 concerning non-profit-making associations and by the statutes currently in force. The tasks of the COSL are:

- to contribute, in all fields and by every means, to the development of sport;
- to promote the Olympic movement, to propagate Olympic ideals in the fields of sport, education, culture and the arts, and to prepare for and organise participation in the Olympic Games;
- to represent the interests of Luxembourg sport when dealing with the authorities and official bodies;
- to bring together the national federations governing competitive sport, leisure sports associations, multi-sport groupings and national sporting organisations.

The COSL's bodies are:

- the General Assembly (GA)
- the Governing Board (GB)
- the Consultative Council (CC)
- the Board of Auditors.

The GA may be ordinary or extraordinary.

The GB is the executive and administrative body of the COSL. It has very extensive powers for conducting the COSL's business in accordance with the statutes and regulations. Anything not expressly reserved for the GA or the CC by law or by the statutes comes within its powers.

The GB is comprised of:

- a Chairman who, upon election, proposes to the GA the team with which he or she wishes to work during an Olympiad;
- a Secretary General, responsible for implementing decisions, executing day-to-day management measures and running the administrative secretariat;
- a treasurer;
- nine other members, chairing the following committees:

1. Top-level Sport Committee
2. Competitive Sport Committee
3. Leisure Sport Committee
4. Finance Committee
5. Legal and Administrative Committee
6. Sport in Education Committee
7. Sport Development Aid Committee
8. Information and Press Committee
9. Medical Committee

The term of office of GB members is four years. Elections always take place after the summer Olympic Games.

The COSL CC has the task of giving opinions on acts, orders and Grand-Ducal and ministerial regulations on sport. On their own initiative, the 23 members of the Council, all elected by the GA, with backgrounds in the private sports movement and genuinely representative of the sports movement as a whole, draft COSL proposals for all general measures to be taken by way of legislation or regulations.

C. Special bodies

The National Committee to combat Doping in Sport (CNLDS) is a quite separate and independent body, made up of representatives of the state (Ministry of Sport and Health) and the sports movement. In addition to its educational and preventive tasks, it is mainly entrusted with carrying out anti-doping checks on the occasion of major sporting events, and may also carry out random checks at training sessions.

For this purpose, the federations have amended their statutes, obliging registered athletes to submit to CNLDS checks at any time in their careers.

The Council of Europe's Anti-Doping Convention was approved by an Act of 26 April 1996.

The Luxembourg Sport Arbitration Board (CLAS) was set up in 1994 in order to facilitate the settlement of disputes between sports federations and associations, clubs and members. This board has up to 15 members, all with recognised sporting expertise and, where possible, legal training. Any member of the Luxembourg sporting world can turn to it for arbitration, provided that he/she is a member of an officially recognised organisation. CLAS arbitration is a guarantee of the competence of judges in the sporting sphere, plus cost savings, rapidity, discretion and confidentiality of rulings as compared with the ordinary courts. The CLAS may be appealed to only after all a federation's internal remedies have been exhausted. Purely sporting disputes and appeals (eg referees' decisions) are excluded, as are disputes over the severity of a disciplinary sanction.

IV. FINANCING SPORT

The financing of sporting organisations through sponsorship and the financing of clubs by local authorities will not be dealt with here.

A. State financial support

Although the most visible support comes from the budget of the Department of Physical Education and Sport, other departments whose funds benefit sport should also be taken into consideration, especially:

* the Department of Education (salaries of PE and sports teachers at post-primary and pre-school level);

* the Department of Public Works (funding the state sports infrastructure);

* the Department of Tourism (funding infrastructures that also benefit sports, such as open-air swimming pools and tennis-courts).

Financial support given by the Ministry of Sport to sports organisations is not covered by any particular legislation. Three main bodies are involved: the Lower House of Parliament, which votes annually to adopt the state budget, the Higher Council for Physical Education and Sport, which makes proposals to the Minister of Sport, who decides on the amount of financial aid to be given.

Analysis of the budget of the Ministry of Sport reveals the main types of financial aid to the sporting movement.

They are (as worded in the budget heads):

* Special and promotional measures linked to high-level sport: various items of expenditure.

This is a budgetary line which makes it possible to act in specific cases to help top-level sportspersons, in particular through social support measures in the field of education or the professional careers of the sportspersons concerned (in the absence, at present, of a genuine social status for members of the sporting elite, something which the new Sports Act proposes to introduce).

* Sports leave: compensatory allowances

Sports leave, referred to earlier, is paid for by the state. The employer advances the allowance, which is then reimbursed by the state on the basis of a declaration. Employees benefiting from sports leave receive for each day of leave a compensatory allowance equal to their average daily salary. The compensatory allowance may not exceed 400% of the national minimum wage. Self-employed persons receive a compensatory allowance whose amount is comparable to that of employees in the private sector. As for sportspersons working in the public sector, they continue to receive their salaries and enjoy any advantages linked to their post.

* Contribution to the operating costs of officially recognised sports federations

The amounts paid are calculated on the basis of activities (training for national officials, organisation of courses for federal officials, training courses, national championships, staging and taking part in international events, etc) and numbers (number of clubs and membership in the previous season).

* Contribution to allowances for federal coaches recruited with state authorisation and under state supervision; contribution to the costs of special programmes and courses for federal officials

One of the main concerns of the policy of financial aid for federal training is to boost the funds needed by federations taking on full-time or part-time professional coaches, to honour the contracts they have signed over a number of years, while ensuring that the amount earmarked is not detrimental to federations which employ non-professional paid coaches.

* Subsidies to officially recognised sports associations and affiliated clubs.

This amount is mainly intended for special subsidies to federations, for example, so that they can take part in world or European championships or stage major sporting events and training courses for coaches and referees. It also covers special grants to clubs taking part in official international federation competitions and ordinary annual subsidies to clubs which - a criterion for determining the amount given - lay particular emphasis on working with young people and training qualified officials.

* Contribution to allowances for administrative staff of officially recognised sports federations.

Federations are increasingly having to take on full-time or part-time administrative staff. At present, the state makes a contribution to the allowances paid by 14 federations to administrative staff on fixed contracts.

* Subsidies to sports federations and associations for the provision, improvement or refurbishment of sports facilities. These subsidies are not to be confused with the grants made under the 5-yearly sports equipment programmes, the main instrument for financing sports amenities built by local authorities or sports federations and paid for out of a special fund known as the National Sport Equipment Fund.

For a number of years, the state has declared its readiness to increase government aid to national sports organisations seeking to raise the standard of their teams to the highest level by more intensive training programmes, the main financial burden of which has to be borne by the private sports movement, ie the federation in conjunction with the Luxembourg Olympic and Sports Committee.

It should also be pointed out that, under a Grand-Ducal Order of 30 May 1986, officially recognised sports federations have been designated as bodies able to receive covenanted donations.

B. Financial support to the Luxembourg Olympic and Sports Committee

In addition to the support received from a group of special partners under multiannual contracts, for more than 10 years or so the Olympic and Sports Committee has been receiving very large payments in the form of gambling levies (lotteries). This has enabled it to increase its financial backing, mainly to teams and athletes, in the framework of top-level and elite sports activities in general, and their participation in the Olympic Games in particular. That is how the COSL encourages federations to establish comprehensive, multi-annual and coherent preparation programmes for their national officials at senior and junior levels. It enables federations to develop and broaden their preparation programmes, over and beyond their own financial resources, by means of loans on pre-established conditions and criteria. Top-level sportspersons and, of course, those selected for the Olympic Games receive special support both in terms of their sport and their professional activities. There is financial help with competitions, courses, medical care, unpaid leave, special training costs and various other kinds of special aids.

For its part, the COSL also finances, regularly or more occasionally, special campaigns for emerging sports, leisure sports, fair-play, etc, grants aids to federal administrative bodies, issues a national publication, launches special studies and runs a "Maison des Sports" provided by the state.

V. CURRENT LEGAL PROBLEMS

The Bosman judgement made an impact on the sports movement, which is worried about the potential implications of the judgement of the European Court of Justice for sport in Luxembourg, where it still tends to retain its amateur status. But when is a sportsperson to be regarded as professional or semi-professional? The Court is not very explicit on this point: it refers to economic activity and states that this is the case if a player engages in a paid activity or receives payment for services rendered. Although players receiving payment in one form or another are not legion in Luxembourg, the question still remains whether amateurs in the strict sense may benefit from Community law in other ways than under the principles of the Bosman judgement (theory of social benefits enjoyed by Community nationals in gainful employment on the territory of other member states, on an equal footing with national workers).

The Bosman judgement outlawed nationality clauses and declared transfer fees contrary to the free movement of workers if they prevent or dissuade players from leaving their clubs once their contracts expire in order to pursue their activity in another member state. The system of transfer fees was recently the subject of an appeal in the Luxembourg courts, in a case concerning, not the application of Community law but the refusal by the chairman of a football club to agree to the transfer of a fifteen year-old player at the club. It should be pointed out that the Luxembourg Football Federation's regulations make transfers of players aged under 19 years conditional on the agreement of the player's club and to the payment of a freely negotiated transfer fee. The young player's father argued the unlawfulness of freely negotiable transfer fees on the ground that they are tantamount to granting club chairmen a virtual right to retain players. The exercise of such a right would be incompatible not only with the Luxembourg Constitution but also with the Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Convention on the Rights of the Child, guaranteeing individual freedom and the right of association. This case is still before the courts.

Most of the sports disputes brought before the Luxembourg Sport Arbitration Board or the ordinary courts (note that certain disputes are barred from arbitration by their subject- matter) concern respect for the rights of the defence when disciplinary sanctions are applied or when coaches' contracts are terminated.

Finally, there has been an increase in the number of disputes between the sports world and the Inland Revenue (taxation of the non-sporting activities of non-profit-making associations, taxation of coaches and players, etc).

VI. LAWS AND REGULATIONS ON SPORT

There follows a list of the laws and regulations referred to, for the most part, in previous chapters.

1. Act of 26 March 1976 on Physical Education and Sport.
2. Acts of 21 February 1983 and 15 March 1991 amending the aforementioned Act on Sports Leave.
3. Act of 29 November 1988 on the Organisation of the Administrative Structure of Physical Education and Sport.
4. Grand-Ducal Regulation of 10 April 1978 on the Central Sports Body.
5. Grand-Ducal Regulation of 9 May 1990 on the organisation of the Higher Council for Physical Education and Sport.
6. Internal Regulation of the Higher Council of Physical Education and Sport.
7. Act of 4 April 1984 on setting up a National School of Physical Education and Sport.
8. Grand-Ducal Regulation of 30 April 1995 on the Consultative Committee set up in conjunction with the National School of Physical Education and Sport.
9. Grand-Ducal Regulations of 16 January 1990 on the restructuring of ENEPS training.
10. Grand-Ducal Regulation of 26 October 1988 authorising the creation and use of a data bank of persons trained at the ENEPS.
11. Grand-Ducal Regulation of 13 March 1992 laying down the arrangements for state financial aid for sport equipment projects subsidised as part of the five-yearly sport equipment programmes.
12. Act of 29 June 1993 authorising the government to subsidise the 6th five-yearly sport equipment programme and the five previous programmes with regulatory provisions establishing the said programmes.
13. Ministerial Regulation of 21 March 1990 on the Organisation of the Interdepartmental Sport Equipment Board.
14. Grand-Ducal Regulation of 30 April 1991 on the granting of sports leave.
15. Grand-Ducal Regulation of 26 August 1980 on compulsory medical checks on active registered members of officially recognised sports federations.
16. Ministerial Regulation of 7 October 1980 on the classification of sports activities and determining the content of compulsory medical examinations for sportspersons.
17. Grand-Ducal Order of 30 May 1986 designating national sports federations as bodies able to receive covenanted donations.
18. Grand-Ducal Regulation of 31 July 1990 establishing safety measures to be applied to school swimming lessons.

19. Grand-Ducal Regulation on 9 August 1980 concerning the National Trophy.
20. Grand-Ducal Regulation of 23 April 1979 concerning the National Order of the Medal of Sporting Merit.
21. Grand-Ducal Regulation of 10 June 1980 determining and organising national sports certificates and Grand-Ducal Regulation of 1 June 1987 amending same.
22. Ministerial Regulation of 2 June 1987 determining tests and minimum performances for the award of national sports certificates.
23. Ministerial Regulation of 21 January 1976 on arrangements for making school facilities available to third persons.
24. Act of 12 January 1988 approving the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, and Act of 26 April 1996 approving the Anti-Doping Convention.
25. Grand-Ducal Regulation of 14 June 1994 on canoeing along public waterways.
26. Act of 15 March 1983 on Arms and Munitions.
27. Act of 31 January 1948 on the Regulation of Aviation. Various regulations on the use of several aerodromes for sports aviation, hang-gliding and microlights.
28. Act of 11 August 1982 on the Protection of Wildlife and Natural Resources.
29. Act of 20 April 1977 on Gambling and Betting related to sporting events, together with its implementing regulations.
30. Act of 28 June 1976 on the Regulation of Fishing in Inland Waters and conventions on fishing in frontier waters.
31. Act of 24 March 1989 restricting the advertising of tobacco and tobacco products, and prohibiting smoking in certain places, and its implementing regulations.
32. Act of 24 May 1989 on work contracts.
33. Act of 19 March 1988 on safety in the civil service
34. Act of 9 May 1990 on dangerous, unhealthy and noxious establishments.
35. Act of 4 April 1974 on the system of public works and supply contracts.

PORTUGAL

REPORT ON SPORT IN PORTUGAL, ITS INSTITUTIONAL STRUCTURE, ITS FINNANCEMENT AND LEGAL DISPOSITIONS IN FORCE

Secretary of State for Sport
May 1998

1. BASIC LAW ON SPORTS' SYSTEM

Law no. 1 enacted on January 13 1990

Under the terms of article 164, subparagraph d) and article 169, no.3 of the Constitution, Parliament does hereby decree as follows:

CHAPTER I
SCOPE AND GENERAL PRINCIPLES

Article 1
Object

The present law sets out the general framework for the sports' system. It has been devised with the aim of promoting and establishing guidelines for sports' activity as a cultural factor which is vital for the full education of human beings and for the development of society.

Article 2
Basic Principles

Under the constitution the sports' system serves to promote "sport for all" whether as a recreational activity or as a form of income in close co-operation with schools - in view of its high educational content – and also with associations, sports' clubs and city halls.

In addition to the previous number above, the State follows the general guidelines set out below when formulating sports-related policy:

The educational and cultural value of sport and the prominent part it plays in the formulation of youth and health policies;
Ensuring sports' ethics;
Acknowledging the essential role played by clubs, their associations and federations and the promotion of joining sports' associations;
The participation of association structures forming part of the sports' framework in formulating sports' policy;
The enhancement and development of training levels of the various playing and support staff;
The optimisation of the human resources and material infrastructures available;
The organisation of national territory;
Reducing regional differences and promoting equal opportunities to play sports;
Decentralisation and the participation of local government.
In supporting the generalised playing of sports, special attention has been paid to particularly disadvantaged social groups, such as the disabled, for whom appropriate tailor-made programmes have been provided.

Article 3
Co-ordination of sports' policy

The Government sees to the ongoing, effective management and co-ordination of those central administration departments and sectors acting in the sports' area.

The co-ordination duties referred to above fall to the minister responsible for sports' policy in conjunction with the specific responsibilities of other ministerial departments as regards particular aspects of sports' activity which, by dint of his/her functions, are incumbent upon him/her.

Within the scope of defining and co-ordinating sports' activity, the Government approves an integrated programme for sports' development which is valid for four years, in sync with the Olympic cycle.

CHAPTER II
SPORTS' ACTIVITY

Article 4
General principles governing sports' education and the playing of sports

The training of sports' agents is promoted by the State and by those public and private bodies with duties in the sports' area without prejudice to the specific vocation of educational establishments.

The training of sports' technicians is intended to endow them with higher qualifications, thereby enabling them to attain a qualified professional status.

Training courses for sports' agents are given by the State or by private corporations with duties in the sports' area in accordance with training programmes set out in an appropriate legal document.

Sports' agents include athletes, teachers, coaches, referees, board members, medical staff, paramedics and, broadly speaking, all those involved in the sports' area.

In drawing up and regulating the playing of sports, objectives should be of an educational, ethical and social-cultural nature, taking into account the degree of individual development and his/her insertion into society.

It is incumbent upon the State to provide for those resources which are required for sports' education to be provided on a regional level, seeing to the integrated promotion of uniting the aims of the various official departments.

Article 5
Sports' ethics

When playing sports, the principles of sports' ethics shall be obeyed, respecting the moral and physical well-being of those involved.
The general public and all those involved in the sports' area – by dint of the exercise of managerial or technical duties – are obliged to observe the principles of the sporting ethic.
In its pursuance of the defence of the sporting ethic, the State shall adopt measures to prevent and penalise unsporting acts, such as violence, corruption, doping and any form of social discrimination.

Article 6
Sports and school

School sports shall be endowed with their own organisation in the context of the sports' system and are subject to the specific framework of the education system.

Playing sports as an extracurricular activity - whether at school or in conjunction with other bodies acting in the sports' area, namely clubs - is facilitated and promoted both from the educational point of view and as a way of spending free time.

With a view to ensuring the principle of decentralisation, the Government shall, in conjunction with local authorities, decide upon suitable measures designed to stimulate and lend support to the actions of the said authorities in the organisation of those activities referred to in no.2 above and played within their area of jurisdiction.

Article 7
Sports in Higher Education

The institutions of Higher Education set out the guidelines for regulating the playing of sports in their communities providing the latter with technical staff trained for this purpose. They shall also lend their support to students' associations.

The main responsibility for the organisation and playing of sport in the context of Higher Education lies with the management structures of students' associations.

Support to the promotion and expansion of sports in the area of Higher Education is set out, in broad terms, in specific regulations which are defined in conjunction with the institutions of Higher Education and the association movement concerned.

Article 8
Sport at the workplace

The organisation and development of the playing of sports in companies and bodies or departments where a professional activity is performed, benefit from special assistance, this being a basic means of providing access to the playing of sports to all citizens.

The playing of sports referred to in the previous number above is based on specific types of sports' associations, respecting the general principles of the present law.

Article 9
Sport in the armed forces and in the security forces

Sports in the armed forces and the security forces are organised on an independent basis in accordance with the parameters defined to this end by the relevant authorities.

Article 10
Traditional games

Traditional games which form an integral part of the specific cultural heritage of the various regions of a country are promoted and supported by regional and local institutions, namely by autonomous regions and city halls.

Governmental departments charged with formulating cultural, educational, sports and tourist policies shall work alongside each other with a view to the preservation, publicising and playing of traditional games.

Article 11
Sports' associations as a whole

The creation and generalisation of sports' associations are supported and promoted whatever their nature i.e. be they for recreational or income-engendering purposes.

Federations, associations and sports' clubs shall be supported by the State under the terms foreseen in the present law to the extent that they perform a useful social function.

Article 12
Qualification of teachers and sports' technicians

Those wishing to teach and carry out technical activities in the sports' area are required by law to possess the relevant qualifications to this end, to attend courses for training purposes and to keep their technical and academic knowledge up-to-date. These courses shall be adapted to the nature of the duties performed - and whether they are carried out in a professional or voluntary capacity – and to their inherent level of difficulty.

Having sounded out the opinions of the those structures representing the parties concerned, the Government shall set out categories for those sports' agents who are the object of the provisions of the previous number above. Those breaching the regulations may be subject to penalties for administrative offences under the terms of general legislation.

Article 13
Sports' associations board members

Sports' associations board members are acknowledged as playing a vital role in organising the playing of sport and shall be ensured such conditions as are necessary for the smooth performance of the duties incumbent upon them.

Measures lending support to the sports' associations board members, whether of an voluntary or professional nature, shall be set out in a purpose-devised law.

Article 14
Athletes

The State shall stimulate the playing of sports, lending its support to athletes whether they be involved in the said activity in a competitive or recreational way.

The playing of sports is also subjected to specific protection and regulations in the context of education, health, culture and other social areas.

The status of the athlete is defined in accordance with the purposes of his/her activity, professionals being deemed to be people for whom the playing of sports is their sole or main activity.

The legal contractual system governing professional athletes is defined in a purpose-devised document, having sounded out the opinions of those bodies representing the parties concerned and the sports' federations, bearing in mind their specific nature as regards the general regulations governing contracts of employment.

NB:
Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 15
High level competition

High level competition is incorporated within the scope of competitive sports. It consists, in line with the talent and vocation of outstanding sporting merit, in the attainment of excellence in sporting performances as defined by international sports' standards, the aim of a career in the sports' area being success at international level.

High level competition is the object of specific support measures in view of the fact that it helps foster the playing of sports and by dint of the particular levels of preparation required by competitors.

The measures referred to in the previous number above apply to the athlete from the time when his/her specific talents are detected and his/her training is commenced. They encompass:

School system regulations;
Regulations governing employment and professional performance;
Civil service regulations;
Regulations governing the fulfilment of military obligations;
Access to training as a physical education teacher or as a sports' technician;
Financial support for his/her preparation;
Sports' insurance;
Professional reinsertion.

The State, in conjunction with sports' associations, shall see to it that high level competition is carried out in a manner which respects sporting ethics and integrity as well as the health and moral and physical well-being of those athletes enrolled in the process.

Article 16
Sports' insurance and social security

The institutionalisation of a compulsory insurance system for athletes is assured. This provides elite athletes with specific protection with a view to covering the specific risks to which they are subject.

Other categories of sports' agents whose activity entails specific situations involving risks are also covered within the specific regulations governing compulsory insurance policies.

The integration of professional athletes in the social security system is set out in specific regulations.

Article 17
Sports' medicine

The access to playing sports in the context of sports' federations will only be granted upon hard evidence of the physical fitness of the person concerned. This shall be proven by way of a medical whose results show the individual to be free of any contraindications.

Without prejudice to the general law-making responsibilities of the State, the central administration's sports' medical department is specifically responsible for research in this area and participation in training courses. It is also incumbent upon the said department to provide the athlete with specialised medical assistance in high level competition, when supporting national teams and, when requested to do so, to treat injuries.

The central administration's sports' medical department provides doping control with logistical support, this being the object of a specific law.

Monitoring the medical progress of school athletes is the specific responsibility of the educational administration's medical department.

Requirements for the professional practice of sports' medicine are set out in a specific law.

Article 18
Taxation

Tax regulations for athletes are established in line with those parameters set out for short-lived occupations.

Sports' clubs who are institutions of public interest are exempt from paying inheritance and donation tax on property acquired at no charge.

The regulations set out in the previous number above also apply to federations benefiting from the regulations applicable to sports' institutions of public interest.

Those bodies referred to in nos. 2 and 3 above and enjoying exemptions shall be subject to the same tax regulations as those envisaged for exemptions enjoyed by private social welfare institutions.

Article 19
Entry into sports' grounds free-of-charge

Having heard the relevant sports' bodies and without prejudice to generally applicable legislation, a regulatory law shall set out the categories of public agents who are allowed free entry into sports' grounds in order to ensure the performance of their duties in full.

Members of the media are assured access to sports' grounds in the performance of their professional duties, without prejudice to constraints and restrictions to this right, namely to protect spectators' rights or any other legitimate interest of clubs, federations or organisers of sports' events under such terms as have yet to be set out in regulations.

CHAPTER III
SPORTS' ORGANISATIONS

SECTION I
SPORTS' ASSOCIATION MOVEMENT

Article 20
Sports' clubs

For the purposes of the present law, sports' clubs are private corporations whose aim is the promotion and practice of sports' activities.

Under the law, sports' clubs who do not take part in professional sports' competitions shall form associations for non profit-making purposes.

An appropriate law sets out the terms by which sports' clubs - or their professional teams – who take part in professional sports' competitions, may become sports' companies for profit-making purposes or the management system to which they would be subject if they had not opted for this status.

The law mentioned in the previous number above shall safeguard, inter alia, the defence of the rights of members and creditors in the public interest and the protection of real estate. It shall also set out a tax system suitable for the specific nature of such companies.

Profits made by sports' companies which have been invested in premises or in sports' training at the club of origin may be exempted from IRC (corporation tax) under the terms of a relevant law.

Sports' clubs and sports' companies involved in professional sports' competitions will be obliged to have an organised accounting system in accordance with the norms of the "POC" (Official Chart of Accounts), with such alterations as have been set out in appropriate regulations.

NB:
Updated wording with those alterations made by articles 1 and 2 of Law no.19 enacted on June 25 1996.

Article 21
Sports' federations

For the purposes of the present law, sports' federations are corporate bodies including athletes, clubs and groups of clubs who form a non profit-making association and meet all of the following requirements:

1 - Seek to pursue the objectives set out below under the terms of their articles of association:

To promote, regulate and manage the playing of a sport or group of similar sports at national level;
To represent the interests of their members in their dealings with the Public Administration;
To represent their sport or group of similar sports in their dealings with foreign counterpart or international organisations.

2 - Obtain status as a sports' institution of public interest.

Article 22
Sports' institution of public interest

The conferral of status as a sports' institution of public interest is the method used to endow a federation with the right to exercise regulatory, disciplinary and other public powers within the scope of their activity.

The granting of the aforementioned status shall be subject to the regulations of a specific law and is based on the consideration and accomplishment of objective requirements, namely:

Compliance of their articles of association with the law;
The democratic and representative nature of their bodies;
The independence and technical skill of their own jurisdictional bodies;
Degree of national social and sporting implantation, namely in terms of the number of players, association organisation and other indicators of sporting development;
Participation in recognised international federations.

Status as a sports' institution of public interest may only be granted once the Superior Sports' Council has been sounded out.

National or regional titles shall only be recognised when awarded by sports' federations with status as sports' corporations run in the public interest as well as national teams organised by the said federations.

The specific legal system protects the name, image and activities carried out by the sports' federations holding status as sports' institutions of public interest.

The sports' federations referred to herein not only benefit from the privileges and benefits foreseen in the present law and supplementary legislation and regulations but also from any such privileges and benefits granted to institutions of public interest under the general law.

Status as a sports' institution public interest may only be granted to a single-sport or multi-sport federation.

NB:
Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 23
Single-sport federations and multi-sport federations

Sports' federations may be of a single-sport or multi-sport nature.

Single-sport federations are those including people or bodies who play the same sport including its various disciplines or a series of similar sports.

Multi-sport federations are those who play various sports for specific areas of social organisation, namely sports for the disabled and sports played within the framework of the education system.

Article 24
Professional league of clubs

Single-sport federations involved in professional sports' competitions as set out in a suitable regulatory law shall be grouped together as a league of clubs which shall solely consist of all clubs involved in such competitions and shall be endowed with legal personality and administrative, technical and financial autonomy.

The league shall be the autonomous federation body for professional sport. Its duties shall include:

Organising and regulating professional competitions played under the aegis of the federation, respecting the technical rules set out by the relevant national or international federation bodies;
Carrying out such supervision, control and monitoring duties as regards its member clubs as have been defined by law or by its articles of association and sports' regulations;
Carrying out disciplinary powers and managing the refereeing area under the terms set out in those bills regulating the present law;
Carrying out such other duties as are incumbent upon them under the law or the federation articles of association.

As regards other sports' federations with professional athletes, bodies may be formed to specifically ensure their representation in their dealings with the federation.

NB:
Updated wording with those alterations made by article 1 of Law no.19 enacted on June 25 1996.

Article 25
Sports' justice

Without prejudice to the provisions of no.2 below, any final decisions and deliberations made by bodies belonging to sports' associations may be challenged under the general terms of the law.

Any decisions or deliberations concerning strictly sporting matters which are based on a breach of technical or disciplinary norms may not be challenged nor can they be appealed against outside the relevant sporting authorities.

Court appeals and the decisions made regarding the latter in no way jeopardise the consequences for the sport resulting from the final decision made by the relevant sports' authority.

Article 26
National teams

The participation of sports' agents in teams or other national representative delegations is considered as being in the public interest and as such benefits from State aid and preferential treatment.

Article 27
Aid to sports' federations

Without prejudice to any aid granted to sports' clubs, only those sports' federations referred to in article 21 hereof may benefit from public subsidies, contributions or loans and aid of any nature, be it technical, material or in the form of human resources.

Only those sports' federations referred to in the previous number above may also benefit from such revenue as has been established by law.

NB:
Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 27-A
Sports-promoting associations

For the purposes of the present law any bodies whose exclusive aim is the promotion and organisation of physical and sports' activities for recreational, educational or social purposes - and not falling under the jurisdiction of federations endowed with status as a sports' institution of public interest - are deemed to be sports-promoting associations.

In order to qualify for State aid, the associations referred to in the previous number above shall be enrolled on an appropriate register to be set up by the public sports' administration.

The associations referred to in the present article may be granted status as institutions of public interest.

NB:
Article 27-A was amended by article 2 of Law no. 19 enacted on June 25 1996.

SECTION II
PORTUGUESE OLYMPIC COMMITTEE

Article 28
Legal System

The Portuguese Olympic Committee is acknowledged as being endowed with such duties and powers as have been set out in the International Olympic Charter, namely organising national participation in the Olympic games and authorising sports' trials for Olympic purposes.

The Portuguese Olympic Committee has the exclusive use of Olympic symbols on national territory.

Special regulations safeguard those rights referred to in the previous numbers above and define the specific State aid to be granted in this regard. Such regulations also provide for co-operation between the various public and private sports' bodies in the context of Olympic preparation and participation.

NB:
Updated wording with those alterations made by articles 1 and 2 of Law no.19 enacted on June 25 1996.

CHAPTER IV
PUBLIC SPORTS' ADMINISTRATION

Article 29
Bodies

The Superior Sports' Council is an advisory body which works alongside the Government member responsible for sports' affairs and consists of representatives from public and private corporations with special duties in the sports' area. It is incumbent upon the said body to monitor the progress of sporting development and study and give its opinion on the guidelines set out by Public Administration in the area of sports' policy.

It is incumbent upon those departments going to make up public sports' administration to put into practice the sports' policy formulated by the Government.

NB: Updated wording with those alterations made by article 1 of Law no.19 enacted on June 25 1996.

Article 30
Autonomous regions

The organisation of Public Sports' Administration in the Autonomous Regions is subject to specific provisions approved by the local government bodies.

Article 31
Research

Scientific research in the area of physical education and sport and attendant matters shall be carried out in an integrated manner and be based on the development of the specific vocation of higher educational establishments and on the development of the duties of public sports' medicine departments and other official or private bodies and also by means of specialised international co-operation.

Research into sports' sciences prioritises the study of the physical condition of the general population in line with their specific circumstances, human performance factors applied to the achievement of sporting excellence and the further study of methodological solutions specifically adapted to Portuguese culture.

Post-graduate courses in applied sports' sciences shall be provided.

Article 32
Planning

The integrated sports' development programme referred to in no.3 of article 3 encompasses the providing of aid to the development of the practice of all types of sports.

In accordance with the participation principle, the integrated sports' development programme shall be subject to the prior opinion of the Superior Sports' Council.

NB: Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 33

Aid to sports' associations

Aid to sports' associations and sports' clubs shall take the following forms:

Financial contributions;
Incentives to the installation of infrastructures and facilities;
Training courses for athletes, board members, sports' technicians and others involved in sports' activities;
Supplying informative and documentary material;
Promoting technical sports' studies;
Forming relationships with international bodies.

Article 34

Programme contracts for sports' development

Aid granted under the terms of subparagraph a) of the previous article above shall be subject to the following requirements:

Presentation of sports' development programmes and its detailed characterisation, specifying the forms, means and deadlines for compliance therewith;
Presentation of costs and attribution of the degree of financial, technical, material and human autonomy envisaged in the plans referred to in the previous subparagraph above.

Public financial contributions may only be granted in this regard when they are the object of officially published programme contracts aimed at sports' development.

Article 35

National Sports' Atlas

The public institutes referred to in no.2 of Article 29 shall, with a view to allowing the national state of affairs in the sports' area, update and publish the National Sports' Atlas as a basic public document. The said document shall include the background, data and indicators relating to various areas of sporting development, namely:

Natural recreational and sports' facilities;
Artificial sports' facilities;
Human framework;
Sports' associations;
Sporting habits;
Physical fitness of citizens;
National and international laws.

Specific regulations shall define co-ordination between the sports' system and the national system of statistics.

NB: Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 36
Sports infrastructures

The Government and local authorities shall carry out an integrated policy as regards sports' facilities and equipment based on criteria ensuring their balanced insertion in their surroundings and in accordance with full and harmonious sports' development.

In order to endow the country with the infrastructures it requires to develop national sports' activity the Government shall safeguard:

The definition of norms placing constraints on the building of sports' premises; compliance with such norms shall be a pre-requisite for the granting of building and usage licences issued by the relevant public departments;
The increased construction, expansion, enhancement and upkeep of facilities and equipment, particularly in the school community;
That any facilities to be built be subjected to safety criteria which are logical in demographic, economic and technical terms.

Any secondary or middle school which is not provided with facilities and equipment suitable for physical education and the playing of sports may not come into full service.

Sports' equipment have also been envisaged for, and are being progressively allocated to, primary schools, such equipment being suitable for this age bracket.

Sports' infrastructures located at State schools shall be prioritised. They shall be open to the use of the community without prejudice to the requirements of the school curriculum which shall prevail.

Regulations governing public sports' facilities shall be set out in specific legislation, having sounded out the opinion of the municipalities.

Public financial contributions for building or enhancing sports' infrastructures belonging to private bodies and the assignment, free-of-charge, of the use or management of public sports' property to private bodies shall be granted on the condition that the said private bodies, in return, act in the public, social and school interest. Such action shall be set out in a specific document applicable to third parties or solely to the parties to contract, depending on who owns the equipment.

Under the law and having safeguarded the interests of those parties concerned, the Government may determine the requisitioning, for limited time periods, of sports' infrastructures belonging to private bodies, for the purposes of holding sports' competitions to which they are suited, whenever the public interest and national interest so justifies and whenever it is a matter of urgency.

It is incumbent upon the ministerial department responsible for sports' policy to see to the overall co-ordination of the integrated infrastructure and equipment policy and attendant public investments, including co-ordination with the other ministerial departments concerned.

Article.37
Reserving sports' facilities

General municipal plans and urban development plans shall set aside areas for the playing of sports.

A regulatory decree of the present law defines the area and the requirements to be obeyed by those areas mentioned in the previous number above.

Areas and facilities licensed for the playing of sports may not be used for any other purpose or be permanently allocated to various uses whilst the plan to which they are subject is in force, regardless of whether they are under private or public ownership.

Article 38
Sports and tourism

Public departments involved in sports and tourism shall co-ordinate their actions so as to ensure the holding of sports' events which are of interest to tourists besides ensuring that sports are included as part of general tourist packages.

CHAPTER V
FINAL PROVISIONS

Article 39
International co-operation

The Government shall set out co-operation programmes to be pursued in conjunction with other countries, enhancing international sports' exchanges for all age groups.

In order to increase European integration in the sports' area, the Government shall ensure full Portuguese participation in European and EU sporting bodies with a view to the exchange of information about, and the monitoring of, various sports' development procedures.

The Government shall see to the implementation of sports' programmes directed at Portuguese communities abroad with a view to strengthening the ties with their community of origin whilst concurrently promoting sports' exchanges with Portuguese-speaking countries.

NB: Updated wording with those alterations made by article 1 of Law no.19 enacted on June 25 1996.

Article 40
Registration of clubs and federations

The registration of sports' institutions of public interest as well as those clubs and other bodies acting in the field of sports, shall be organised by the public sports' administration.

NB: Updated wording with those alterations made by article 1 of Law no.19 enacted on June 25 1996.

Article 41
Supplementary development of the law

Within two years the Government shall publish such further legislation as is required to supplement the present law. Any such publication shall take the form of a Statute Law.

NB:
Updated wording with those alterations made by article 1 of Law no.19 enacted on June 25 1996.

Article 42
Transitional provision

The provisions of no.3 of article 36 are applicable to schools built after the coming into force of the present law.

The Government and the local authorities shall jointly ensure that disadvantaged middle schools and secondary schools are provided with suitable sports' facilities for school use within four years.

Provisions concerning status as a sports' corporation run in the public interest come into force on those dates set out by the relevant Statute Law. The latter shall be drafted after federations already endowed with status as corporations run in the public interest have been sounded out.

NB:
Wording altered under the terms of the Correction published in the Diário da República (Statute Book) I, no.64 on March 17 1990.

Article 43
Revocation

The following laws are hereby revoked:

Decree no. 32 946 enacted on August 3 1943;
Law no. 2104 enacted on May 30 1960.

Any other legal or regulatory provisions contrary to the stipulations of the present law are also revoked hereby.

Endorsed on November 2 1989.

The Speaker of Parliament, Vitor Pereira Crespo.

Enacted on December 22 1989.

That the present law hereby be published.

The President of the Republic, MÁRIO SOARES.

Counter-signed on December 28 1989.

The Prime Minister, Aníbal António Cavaco Silva.

2. Law no. 19 enacted on June 25 1996

Amendments to the Basic Law on Sports

Under the terms of article 164, subparagraph d) and article 169, no.3 of the Constitution, Parliament does hereby decree as follows:

Article 1

Articles 20, 24, 28, 29, 39, 40 and 41 of Law no.1 enacted on January 13 1990 shall henceforth be worded as follows:

Article 2

Chapter III of Law no. 1 enacted on January 13 1990 shall henceforth be entitled "Sports' organisations".

Section I of the chapter mentioned in the previous number above shall henceforth be entitled "Sports' Association movement" with section II thereof being entitled "The Portuguese Olympic Committee".

A new article has been added to Section I, mentioned in no.2 of the previous number above, with the following wording:

Article 27-A
Sports' promoting associations

For the purposes of the present law any bodies whose exclusive aim is the promotion and organisation of physical and sports' activities for recreational, educational or social purposes - and not falling under the jurisdiction of federations endowed with status as sports' institutions of public interest - are deemed to be sports-promoting associations.

In order to qualify for State aid, the associations referred to in the previous number above shall be enrolled on an appropriate register to be set up by the public sports' administration.

The associations referred to in the present article may be granted status as institutions of public interest.

Article 3

The league referred to in article 24 of the Basic Law on Sports shall be endowed with all the powers, duties and obligations which, by law or the federation articles of association, are conferred upon the autonomous body mentioned in Statute Law no.144 enacted on April 26 1993. This shall include all rights and obligations which the said professional league - incorporated in accordance with the regulations of the sport concerned- has already taken on upon the coming into force of the present law.

Endorsed on April 18 1996. The Speaker of Parliament, António de Almeida Santos.
Enacted on June 7 1996. That the present law hereby be published.
The President of the Republic, JORGE SAMPAIO.
Counter-signed on June 12 1996.
The Prime Minister, António Manuel de Oliveira Guterres.

3. SPORTS' COMPANIES

Statute Law no, 67 enacted on April 3 1997

The Basic Law on Sports, Law no.1 enacted on January 13 1990 – with the wording provided by Law no. 19 enacted on June 25 1996 – established that professional sports' clubs could opt to become sports' companies or maintain their status as non profit-making corporate bodies, in which latter case they would be subject to a specific management system.

Statute Law no, 146 enacted on June 21 1995 subjected this area to regulations but in a manner generally held to be inappropriate in that it forbade sports' companies from distributing profits, thereby depriving them of one of the main attractions behind this type of venture. In this regard and in accordance with the provisions of Law no.19 enacted on June 25 1996, the said legal system is in need of review with a view to providing the said enterprises with such means as are required for them to become a major force in professional sport in Portugal.

Sports' companies are a new type of enterprise governed by the general rules applicable to private limited companies but with some specific differences arising from the specific requirements of the sports' activity, their main object. Specific differences of special note include: the increase in minimum share capital and how it is to be paid up; the special system creating ties of loyalty between the enterprise and its founding club by conferring special rights upon the shares held by the founding club; the possibility of Autonomous Regions, municipalities and municipal associations subscribing up to 50% of share capital in enterprises whose registered offices are located within their area of jurisdiction; and the setting of special rules governing the transfer of founding club assets to the sports' companies.

Moreover, sports' clubs taking part in professional competitions who do not opt for this legal framework shall, under the terms of the present law, be subject to a special set of regulations basically designed to establish minimum rules ensuring the strict, open management of the said sports' clubs. Aspects of the said regulations which are of special note include the principle of personal accountability whereby club executives shall be held responsible for certain acts of management; open accounting ensured by the qualification of accounts by a chartered accountant; the compulsory adoption of the POC (Official Chart of Accounts); and the provision of bank guaranties or fidelity bonds to serve as guarantees for those acts which are to the detriment of the said clubs.

Finally, in accordance with the legislative authorisation granted by subparagraph d), no.4, article 30 of Law no.52-C enacted on December 27 1996, as well as the provisions of no.5, article 20 of the Basic Law on Sports - with the wording provided by Law no. 19 enacted on June 25 1996 – a tax system has also been set out for such enterprises. This system takes due account of the specific differences setting such enterprises apart from other trading companies.

Hence:

Under the legislative authorisation granted by subparagraph d), no.4, article 30 of Law no.52-C enacted on December 27 1996 and following on from the legal system set out in Law no.1 enacted on January 13 1990 – with the wording provided by Law no. 19 enacted on June 25 1996 – and under the terms of subparagraphs b) and c), no.1 of article 201 of the Constitution, the Government does hereby decree as follows:

CHAPTER I
SPORTS' COMPANIES AS A WHOLE

Article 1
Object

The present law sets out the legal system and specific management system to be adopted by sports' clubs who decide not to become sports' companies.

For the purposes of the present law professional sports' competitions are those which are defined as such under the terms of articles 35 to 38 of Statute Law no.144 enacted on April 26 1993.

Article 2
Sports company

For the purposes of the present law, sports' companies are deemed to be private corporations incorporated as private limited companies whose object is to participate in professional sports' competitions for one form of sport - with the exception of enterprises incorporated under the terms of article 10 -, to organise, promote and develop activities connected with the playing of the professional sport concerned.

Article 3
Classification of sports' companies

The sports' enterprise may be come about as the result of:

The transformation of a sports' club which participates, or wishes to participate, in professional sports' competitions;
Conferral as a legal entity upon teams who participate, or wish to participate, in professional sports' competitions;
The creation of such an enterprise "from scratch" and not resulting from the transformation of a sports' club or the conferral of legal entity upon a team.

Article 4
Irreversibility

A sports' club deciding to form a sports' enterprise or confer legal personality upon its professional team is no longer entitled to take part in professional competitions unless it does so under its newly acquired legal status.

Article 5
Auxiliary law

1 - The norms governing private limited companies are also applicable to sports' companies.

2 - As regards the public subscription of shares in sports' companies and to anything else which is applicable under the terms thereof, the provisions of the Marketable Security Market Code shall apply, making such adaptations as are necessary.

Article 6
Company name

Company names of sports' companies shall contain an indication of the type of sport they are involved in, ending in the abbreviation SAD.

In those cases envisaged in subparagraphs a) and b) of article 3 the company name shall be obliged to make a reference to the club to which it owes its origins.

Article 7
Minimum share capital in professional football competitions

At the time of their incorporation, enterprises taking part in professional football competitions may never have share capital of less than:

PTE 200,000,000 for 1st division sports' companies;
PTE 100,000,000 for 2nd division sports' companies.

Sports' companies gaining promotion from the 2nd to the 1st division may not join the latter if they do not possess share capital equal to or greater than the figure stated in subparagraph a) of the previous number above.

Article 8
Minimum share capital in professional basketball competitions

Enterprises taking part in professional basketball competitions may never have share capital of less than PTE 50,000,000.

Article 9
Increase in share capital

The minimum share capital for those sports' companies referred to in articles 7 and 8 shall be increased progressively so as to attain a figure equal to 30% of the average company budget in the first four years of its existence within five years after its formation. Failure to do so may result in exclusion from professional competitions.

In the event that, upon termination of the period referred to in the previous number above, the sports' enterprise has ceased to take part in professional competitions, it shall not be required to increase its share capital but it may not take part in such competitions again until it has made such an increase.

Article 10
Sports' companies in amateur competitions

Sports' companies may be legally formed outside the context of professional competitions.

In those cases referred to in the previous number above the minimum share capital of such enterprises is set at PTE 50,000,000.

Article 11
Paying up of share capital

Without prejudice to the provisions of article 31, share capital shall be fully paid up in cash. 50% of the nominal share value may be deferred for a period not exceeding two years.

Article 12
Shares

Shares in sports' companies fall into two categories:

Category A: subscribed to by the founding club in the event that the enterprise has been incorporated under the terms of subparagraph b), article 3;
Category B: all other shares.

Category A shares may be subject to legal seizure or sale in return for a consideration payable to public corporations.

Shares shall always be of the registered type.

Article 13
Administration of the company

The company management body comprises an odd number of members to be stipulated in the Statutes though never less than three and managers by profession.

Article 14
Incompatibilities

The following may not hold posts as directors of sports' companies:

Those who have held corporate posts in other sports' companies in the same type of sport during the previous year;
Those holding posts on the governing bodies of sports' club federations or associations for the same type of sport;
Professional athletes, managers and referees working in the same sport.

Article 15
Registration and advertising

Registration and advertising rules for sports' companies shall be set out in the provisions of that legislation which is applicable to trading enterprises. The notary concerned shall duly and officially notify the Sports' Institute of any such incorporation, the articles of association and any alterations to the latter, this notification being at the expense of the said enterprises.

Article 16
Commencement of activity

Sports' companies are endowed with legal personality as from the date on which they make the final registration of their memorandum of association and under the terms of the previous article above.

In the same way, any alterations to the Statutes of sports' companies shall only come into force upon registration under the terms of the previous article above.

Article 17
Increases in capital

When increases are made to capital, preference shall be given to those who are already shareholders in the company and members of the founding club, under the terms of the articles of association of the enterprise, where applicable.

Article 18
Special authorisation

The disposal or sale for a consideration of property which is part of the enterprise's real estate assets will require authorisation by the general assembly.

Any acts resulting in budget overshoots will also require authorisation by the general assembly.

In order for the general assembly to make a decision on those matters mentioned in the previous numbers above when first convened, at least two thirds of the total votes must be present or represented.

When convened for a second time the general assembly may come to a decision regardless of the number of shareholders present or represented.

The general assembly shall come to decisions about such disposals or by a two-thirds' majority vote at the first or second convening.

Article 19
Ban on the acquisition of interests

The sports' enterprise may not hold interests in the share capital of other enterprises of an identical nature.

Article 20
Restrictions to the exercising of corporate rights

Once those holding shares in more than one sports' company have exercised their corporate rights in one of the said enterprises, they are no longer entitled to exercise them in others involved in the same sport with the exception of rights to share and receive dividends and to transfer corporate interests.

The constraint foreseen in the previous number above shall also apply to the spouse, relatives or blood relatives or anybody with whom they share the same roof or enterprises in which it holds a controlling interest or which form part of their group.

Article 21
Share transfer restrictions

The memorandum of association may not place constraints upon share transfer.

Article 22
Use of assets in the event of dissolution

Without prejudice to the provisions of article 34, the remaining assets of a company which has been dissolved shall be used in the manner set out by the articles of association or by a shareholder decision. It shall continue to be used for the same purposes as those of the company which has been wound up.

NB: Updated wording with those alterations made by the sole article of Law no.107 enacted on December 16 1997.

Article 23
Use of yearly profits

The sports' enterprise may allocate its legally distributable profit to shareholders.

Article 24
Tax system

Any sums granted by the sports' enterprise to its club of origin enjoying status as a public utility company shall, in their entirety, be deemed to be losses or costs for the financial year, provided that they have been invested in facilities or sports' education.

NB: Updated wording with those alterations made by the sole article of Law no.107 enacted on December 16 1997.

Article 25
Corporate year

The corporate year for sports' companies corresponds to the calendar year unless the sports' enterprise has adopted an annual tax period which does not coincide with the calendar year in which case the corporate year shall coincide with the annual tax year actually adopted.

The provisions of article 65-A of the Trading Enterprise Code shall apply in cases such as those foreseen in the previous number above.

NB: Updated wording with those alterations made by the sole article of Law no.107 enacted on December 16 1997.

Article 26
Autonomous Regions and municipal associations

Autonomous Regions, municipalities or municipal associations may take up stakes in the share capital of sports' companies whose registered offices are located within their area of jurisdiction, provided such interests do not exceed 50% of share capital.

Article 27
Bingo operating concession

Sports' companies may be bingo concessionary companies under the same terms as those applying to sports' clubs.

CHAPTER II

COMPANIES INCORPORATED BY DINT OF THE TRANSFORMATION OF A SPORTS' CLUB AND COMPANIES COMING ABOUT AS A RESULT OF THE ADOPTION OF LEGAL PERSONALITY BY TEAMS.
JOINT PROVISIONS

Article 28
First option

In the event that a sports' company is incorporated with the right to public subscription, under the terms of article 3, subparagraphs a) and b), members of the club undergoing any such transformation or of the funding club shall have first option on the purchase of corporate stakes, the said option then being allocated in accordance with voting rights.

Subscription by the general public may be carried out in less favourable conditions than those set out for subscription by members of the club undergoing any such transformation or of the funding club.

Article 29
Dealings with the sports' federation

In those of its dealings with the federation benefiting from status as a public sports utility with regard to the sport in question and in the context of professional sports' competitions, the sports' enterprise – when incorporated under the terms of subparagraphs a) and b) of article 3 - shall represent or succeed the club to which it owes its origin.

In the 30 days following its approval by the relevant governing bodies, the sports' enterprise shall send its accounts to the federation referred to in the previous number above.

Those dealings with the federation referred to in no.1 shall be take place through the professional league of clubs.

CHAPTER III

ENTERPRISES COMING ABOUT AS A RESULT OF THE ADOPTION OF LEGAL PERSONALITY BY TEAMS. SPECIFIC PROVISIONS

Article 30

Stake held by the founding club

In the case referred to in subparagraph b) of article 3, at no time may the founding club hold a direct stake in company share capital of less than 15% nor more than 40% thereof.

In the case referred to in the previous number above, those shares held by the founding club always entitle it to:

The right to veto general assembly decisions regarding the merger, split, transformation or dissolution of the company and alterations to its articles of association, increases or reductions in capital and the relocation of its registered offices;
The power to designate at least one of the members of the administration body who shall be given the right to veto decisions made by the said body as regards those matters set out in the previous subparagraph above.

In addition to the provisions of the previous number above, the sports' company's Statutes may subject general assembly decisions regarding those matters set out in the said articles to the authorisation of the founding club.

The founding club may take up a stake in the share capital of the sports' company through a corporate holding manager provided that it does not hold a controlling interest in the said manager.

Article 31

Paying up share capital subscribed to by the founding club

Share capital subscribed to by the founding club may be paid up in kind.

Article 32

Sports' companies and professional teams

Upon the incorporation of the sports' company or at some later date, the founding club may transfer to the latter all or part of its rights and obligations connected with its participation in professional sports' competitions in that sport which constitutes the object of the enterprise.

For the purposes of the previous number above, the founding club shall draw up an inventory listing the rights and obligations being transferred. These shall be set out in document form which shall be attached to the public deed of incorporation of the enterprise and shall be checked by a chartered accountant.

Any transfer of liabilities shall be matched by a transfer of assets valued under the terms of the previous number above as being at least equal in value to the said liabilities.

The transfer of the obligations and rights of the founding club is not subject to the consent of the other party, with the sports' enterprise being held liable to club creditors for any reduction in the asset collateral brought about by the transfer of the club's stake in any contracts to the enterprise.

Article 33
Compulsory transfer

The transfer of any rights to participate in those competitions in which the founding club was involved shall be compulsory as shall the transfer of any contracts of employment and training contracts in the sports' area held by players of the professional sport which constitutes the object of the company.

Article 34
Allocation of assets in the event of dissolution

In the event of the dissolution of the sports' company, sports' facilities shall be attributed to the founding club.

Article 35
Sports' facilities

The use of sports' clubs' facilities by the sports' company in which it has an interest shall be the object of a contract in writing setting out an appropriate consideration for such use, though never exceeding 30% of the company's annual budget.

Article 36
Bingo

In the case referred to in subparagraph b) of article 3, the founding club acting as the concessionary for the operation of a bingo hall may transfer the said concession to the sports' enterprise. Any such transfer shall be subject to the rules set out in article 18.

CHAPTER IV
SPECIAL MANAGEMENT SYSTEM

Article 37
Making professional departments of sports' clubs independent

Sports' clubs taking part in professional competitions who do not opt to form sports' companies shall adopt a structure which allows their professional departments to be independent from all other sections, with each section having its own accounts department and a clear distinction being made between the revenue and expenditure of each.

Article 38
Board members responsible for professional departments

The board members responsible for the management of each professional department of sports' clubs shall be named in the list of governing bodies of the said clubs.

Article 39
Accountability

For the purposes of the present law the following people shall be held responsible for the management of the professional departments of those sports' clubs mentioned in article 37: the chairman of the board; the chairman of the board of auditors or sole auditor; the board member responsible for financial affairs; and board members charged with the management of the aforementioned professional departments.

Without prejudice to any other applicable sanctions, in those cases referred to in article 24 of Statute Law no.20-A enacted on January 15 1990 - with the wording provided by Statute Law no. 394 enacted on November 24 1993 – and article 27-B also contained within Statute Law no.20-A enacted on January 15 1990 as amended by article 2 of Statute Law no.140 enacted on June 14 1995, the members of sports' club management mentioned in the previous number above shall have unlimited, joint and several, personal responsibility for paying tax creditors or social security institutions such amounts as they have failed to submit during the management period concerned in settlement of taxes or social security.

Article 396 to 398 and article 519 of the Trading Enterprise Code, with such adaptations as prove necessary, shall apply to those board members referred to in the previous number above.

Article 40
Guarantees

The management of those sports' clubs referred to in article 37 shall provide their professional league of clubs with a bank guaranty, fidelity bond or other equivalent guarantee by the commencement of each sports' season covering their responsibilities towards the said clubs, under the same terms as directors are held accountable to private limited companies.

The amount of the guaranty shall be determined by the professional league of clubs though it shall never be less than 10% of the budget of the club's professional department.

Article 41
Chartered accountant

The balance sheet and other accounts of those sports' clubs referred to in article 37 may not be endorsed by their general assemblies unless the prior opinion of a chartered accountant or a company of chartered accountants has been sought in their respect.

The provisions of article 446 of the Trading Enterprise Code, shall apply to the chartered accountant, making such adaptations as prove necessary.

The said opinion shall be distributed amongst club partners and members before the general assembly to appreciate the said accounts is held.

Article 42
Balanced budgets

The sports' clubs referred to in article 37 may not approve budgets in which expenditure exceeds forecast revenue.

Article 43
Convening the general meetings of sports' clubs

The general assembly of those sports' clubs referred to in article 37 as well as of those clubs whose teams have adopted legal personality, shall be convened by way of a notification. The latter shall contain the terms whereunder the said assembly has been convened and shall be published in the club paper or newsletter, where applicable, and in two national newspapers, without prejudice to any other requirements set out in the articles of association.

An 8-day period shall separate the first publication and the date of the general meeting unless longer period has been established.

CHAPTER V
FINAL AND TRANSITORY PROVISIONS

Article 44
Sports' clubs' accounts

Until an accounting plan specifically adapted to the needs of sports' activities has been approved, those sports' clubs referred to in article 37 shall be subject to the rules on the organisation and publication of accounts which apply to private limited companies, making such adaptations as prove necessary.

Article 45
Transitory norm

Until such time as professional football competitions have been recognised by law, the professional football competitions for the 1st division and the 2nd division of the national football championship shall be regarded as such to the intents and purposes of the provisions contained in no.2, article 1.

Article 46
Revocation of previous legislation

Statute Law no. 146 enacted on June 21 1995 is hereby revoked.

Article 47
Coming into force

The present law shall come into force on the day following its publication, with the exception of those norms set out in chapter IV which shall come into force on August 1 1997.

Endorsed and approved at the Cabinet Meeting held on January 2 1997.
António Manuel de Carvalho Ferreira Vitorino – António Luciano Pacheco de Sousa Franco – José Eduardo Vera Cruz Jardim – Augusto Carlos Serra Ventura Mateus – Jorge Paulo Sacadura Almeida Coelho.

Enacted on March 19 1997. That the present law hereby be published.
The President of the Republic, JORGE SAMPAIO.
Counter-signed on March 20 1997. The Prime Minister, António Manuel de Oliveira Guterres.

4. Law no. 107 enacted on September 16 1997

ALTERATION MADE TO STATUTE LAW No. 67 ENACTED ON APRIL 3 1997 BY WAY OF RATIFICATION (SETTING OUT THE LEGAL SYSTEM GOVERNING SPORTS' COMANIES)

Sole Article

Articles 22, 24 and 25 of Statute Law no.67 enacted on April 3 1997 setting out the legal system governing sports' companies shall henceforth be worded as follows:

Approved on July 31 1997.

The Speaker of Parliament, António de Almeida Santos.

Enacted on August 27 1997.

That the present law hereby be published.

The President of the Republic, JORGE SAMPAIO.
Counter-signed on September 2 1997.
The Prime Minister, António Manuel de Oliveira Guterres.

5. Law no. 103 enacted on September 13 1997

SETTING OUT THE SPECIFIC TAX SYSTEM FOR SPORTS' COMPANIES (LAW NO.1 ENACTED ON JANUARY 13 1990 ADOPTING THE WORDING PROVIDED BY LAW NO. 19 ENACTED ON JUNE 25 1996) FORESEEN IN STATUTE LAW No. 67 ENACTED ON APRIL 3 1967

Under the terms of article 164, subparagraph d), article 168, no.1, subparagraph i) and article 169, no.3 of the Constitution, Parliament does hereby decree as follows:

Article 1
Scope

The present law sets out the tax system applying to those sports' companies referred to in Statute Law no.67 enacted on April 3 1997, without prejudice to the provisions of article 24 hereof.

Article 2
Taxation period

Sports' companies may adopt an annual taxation period which differs from the calendar year. Any such period shall be maintained for no less than five years.

The use of the entitlement referred to in the previous number above shall be subject to the prior presentation of an application to the Finance Minister, setting out the grounds for any such use.

Article 3
Repayments

To all legal intents and purposes, the right to contract professional footballers shall be regarded as an intangible fixed asset provided that the said players have been registered in professional competitions in the pay of the sports' enterprise.

Repayments to be made for the financial year on those fixed assets referred to in the previous number above under the terms of relevant legislation shall be calculated using the constant quotas' method.

The repayment rates applicable shall be determined in line with the duration of the contract signed between the player and the sports' company.

For the purposes of the present article, when calculating the worth of the right to contract players, due consideration shall be given to the amount paid by the sports' company to the body from it acquired the player in return for his transfer and any sums paid to the player himself by dint of his having signed or renewed his contract, without prejudice to the provisions of general legislation.

Article 4
Reinvestment of gains

The provisions of article 44 of the Trading Enterprise Code shall be applied as regards any positive difference between the gains and losses made by dint of the transfer of fixed assets for a consideration as referred to in the previous article above, provided that the gain corresponding to the totality of the said items has been reinvested in contracting players or in acquiring tangible fixed assets for sporting purposes by the end of the third financial year subsequent to that in which it is made.

Article 5
Exemption from Property Transfer Tax and emoluments

Enterprises who reorganise under the terms of Statute Law no.67 enacted on April 3 1967 may be granted the following benefits:

Exemption from municipal property transfer taxes on the transfer of real estate required for their reorganisation provided that the relevant local authority body acknowledges this as being in the municipal interest;
Exemption from stamp duty, emoluments and any other legal costs due by dint of the practice of any acts forming part of the reorganisation process.

For the purposes of the provisions of the previous number above, the following acts shall constitute reorganisation:

The incorporation of sports' companies by integrating all or part of the assets of sports' clubs allocated to the exercising of an activity which, technically speaking, constitutes autonomous operation provided that this activity ceases to be carried on by the sports' club and is now carried on by the sports' company;

When sports' companies incorporate all or part of the assets of sports' clubs allocated to the exercising of an activity which, technically speaking, constitutes autonomous operation provided that this activity ceases to be carried on by the sports' club and is now carried on by the sports' company;

The incorporation of sports' companies by integrating part of the assets of sports' clubs allocated to the exercising of an activity which, technically speaking, constitutes autonomous operation provided that this activity ceases to be carried on by the sports' club and is now carried on by the new enterprise with a controlling interest being held in the capital of the latter by the sports' companies or by the founding club;

When a pre-existing company incorporates part of the assets of sports' clubs allocated to the exercising of an activity which, technically speaking, constitutes autonomous operation provided that this activity ceases to be carried on by the clubs and is now carried on by the enterprise with a controlling interest being held in the capital of the latter by the sports' companies or by the founding club.

NB:

Wording altered under the terms of the Statement of Correction no. 17 published in the Diário da República (Statute Book) I-A, no.250 on October 28 1997.

Benefits shall be granted by decree of the Finance Minister and at the request of sports' clubs in accordance with the opinion of the Inland Revenue. Any such request shall be made in triplicate, containing such information as is required for its appreciation and being accompanied by documentary evidence that it is in the municipal interest.

The Inland Revenue shall request the relevant department of the ministry responsible for sport affairs to issue an opinion as to whether those assumptions referred to in no.1 are in evidence.

The Inland Revenue shall also ask the General Authority for Registration and Notarial Affairs for an opinion as to whether those assumptions referred to in no.2 are in evidence.

The opinions referred to in nos. 4 and 5 shall be provided within 30 days after they have been requested. They shall be assumed to be in the affirmative if no answer is received within the said period.

The acknowledgement of municipal interest is deemed to serve as a waiver to any compensation foreseen in no.7, article 7 of Law no.1 enacted on January 6 1987.

Article 6
Transitory provision

For the first five days after the commencement of activity, the provisions of article 62-B of the Corporation Tax Code, with such adaptations as prove necessary, shall apply to any transfers of fixed assets made from the sports' club to the sports' company or to any other company in which the sports' enterprise or the founding club holds a controlling interest.

The fixed asset items to be the object of transfer may be re-evaluated by the sports' club based on values which have been endorsed by a chartered accountant.

For the purposes of calculating the taxable profit of the sports' enterprise, the provisions of article 6 of Statute Law no.22 enacted on February 14 1992, with such adaptations as prove necessary, shall apply to the transfer of any fixed assets which have been re-evaluated under the terms of no.2.

Any decision to adopt the legal system of sports' companies cannot be made until sports' clubs have their tax situation in order, namely as regards the settlement of taxes and contributions.

Having their tax situation "in order" means the settlement in full of taxes and contributions, with no arrears or compliance with the terms of the Tax Process Code and supplementary legislation and with the terms of such debt settlement schemes as exist under prevailing legislation.

Article 7

Transitory system of responsibility

Sports' companies or any other enterprises companies to be incorporated in the context of those operations foreseen in no.2, article 5 of the present law, shall be held jointly and severally responsible for any outstanding tax and social security payments owed by the founding club for the period prior to the date of the said operations up to a limit set at the value of those assets which have been transferred to each enterprise.

NB: Wording altered under the terms of the Statement of Correction no. 17 published in the Diário da República (Statute Book) I-A, no.250 on October 28 1997.

Article 8

Further legislation

The provisions set out in the Corporation Tax Code and in further legislation shall both apply, making such adaptations as prove necessary.

Article 9

Coming into force

The present law shall come into force on the day immediately following its date of publication.

Approved on July 31 1997. The Speaker of Parliament, António de Almeida Santos.
Enacted on August 25 1997. That the present law hereby be published.
The President of the Republic, JORGE SAMPAIO.
Counter-signed on August 28 1997.
The Prime Minister, António Manuel de Oliveira Guterres.

6. Organizational Framework for the Practice of Sports in Portugal

Public Sector

1. Political Organization - Co-ordination of Sports Policies
2. Public Support Services
3. The Sports Council
4. Local Authorities
5. School and University Sports

Private Sector

1. Portuguese Olympic Committee
2. Portuguese Sports Federation
3. National Sports Federations - Legal System
4. Professional Leagues
5. Sports Clubs - Sports Companies
6. Other Entities - Sports Promotion Associations

Legal Provisions

1. Framework Law on the Sports System
2. Regulations Governing High Performance Sport
3. Sport Insurance
4. Licensing for Sports Facilities
5. Anti-Doping Legislation
6. Legislation on the Prevention and Punishment of Sports-Related Violence
7. Legislation on Corruption in the Field of Sport

Financing

1. Framework Law on the Sports System
2. Activities Financed within the Scope of Programme Contracts

Public Sector

Political Organisation - Co-ordination of Sports Policies

The Portuguese sports system is based on the relationship between the public and private sectors.
While making full use of the dynamics of association created by the sports clubs, regional associations and national federations for the various types of sports, it is the job of the Government to issue legislation on the basis of which all sports activity is to be developed and to foster the said activity by creating the technical and material conditions for its development.
The minister responsible for sports in Portugal is the Deputy Prime Minister, who is in charge of the political orientation. The policies themselves, however, are conducted through the office of the Secretary of Estate for Sports.

Public Support Services

In order to concretise the government's manifest interest in supporting all types of sports activities, either in the field of financing, training and international relations or in aids and subsidies for high performance sport and its respective support structures, three distinctive bodies were created, the objectives of which are defined by the respective support legislation:

IND - National Sports Institute - created by Decree-Law no. 62/97 of 26th March.

This is a structure which, in the context of its relations with the sports associations sector or with other public or private entities, fosters sports by:

granting technical and material support;
developing and co-ordinating an integrated programme for the construction and renovation of sports infrastructures;
studying measures for combating doping, violence and corruption.

CEFD - Centre for Sports Studies and Training - created by Decree-Law no. 63/97 of 26th March.

The role of this body, within the context of its co-operation with the sports association movement, is to foster and promote a training programme for sports professionals by:

- promoting courses, colloquiums, conferences and seminars for managers, athletes and sports technicians;
- issuing publications to disseminate information on the work carried out or supported by the CEFD;
- carrying out studies as to the legislation to adopt in the context of the reform and modernisation of the sports system;
- establishing relations with foreign and international entities, both public and private, in the field of sports.

CAAD - Complex of Support for Sports Activities - created by Decree-Law no. 64/97 of 26th March.

The objectives of this body, in the context of support for sports activities both at the high performance competition and recreation levels, are:

- to promote the activities that take place in the Sports Complexes of Jamor and Lamego;
- to carry out the management of the sports facilities for which it is responsible;
- to make the best use of the resources available within the scope of the support programmes for high performance sport, co-ordinating the respective programmes through the intervention of the Centre for High Performance or Competitive Sport.

The Sports Council
- Framework Law on the Sports System - Article 29.
- Decree-Law no. 52/997 of 4th March

The Sports Council is the advisory body of the Secretary of State for Sport and its responsibility lies in monitoring the evolution of the Portuguese sports system and issuing reports on the guidelines for national sports policies.

Made up of twenty representatives from corporate bodies governed by public and private public law, the Council is presided over by the representative of the Secretary of State for Sport, who for this purpose has a casting vote.

Local Auhorities
Law on Local Authorities (LAL), established by Decree Law no. 100/84 of 29th March

The constitutional establishment of the principle of autonomy of local authorities and of decentralisation of the central government has naturally led to the emergence of a wide range of legislation aimed at the possibility of ensuring greater efficiency and scope of operation for the town councils, particularly as far as culture, recreation and sport are concerned.

Sport which is basically practised for recreational purposes with random joint activities within the context of training and organisation of sports events, together with regional associations or national federations.

On the other hand, a new policy on infrastructures was outlined by the local government which regards the creation of new facilities for the practice of sport as an instrument for promoting local and regional development.

School and University Sport
- Decree-Law no. 165/96 of 5th September and
- Framework Law on the Sport System

School Sport, to the extent that it is an activity directed at the pupils of Primary and Secondary Education, is governed by the Ministry of Education. The orientation of sports policies is the responsibility of the Secretary of State for Education and Innovation.
Created by Decree-Law no. 165/96 of 5th September, the Co-ordinating Office for School Sports - the central and national co-ordination body - plans and develops a number of actions inherent to the sports policies in this field through the regional structures - the CAE (Educational Area Centres) - incorporated in the 5 Regional Directorates of Education.
University level sport, as laid down in Articles 7 and 23 of the Framework Law on the Sports System, is also governed by Ministry of Education, by means of the initiatives developed by the Office of the Secretary of State for Higher Education.

Private Sector

Portuguese Olympic Committee
- Framework Law on the Sports System - Article 28
- Decree-Law no. 1/82 of 4th January.

As a result of the rights and powers conferred upon it by the International Olympic Charter, the Portuguese Olympic Committee is entitled to organise the representation of the country at the Olympic Games and also has the exclusive right to use the Olympic symbols in Portugal.

This exclusive right, already provided for by Decree-Law no. 41784 of 6th August 1958, was reinforced and extended, as far as the objectives are concerned, by Decree-Law no. 1/82 of 4th January.

Portuguese Sports Federation

In response to the legitimate interests of the association movement in Portugal, the Portuguese Sports Federation was set up on 10/8/93 as a space of intervention for the associations and officially recognised on the basis of the legitimacy conferred upon it by the various national sport federations that from the very beginning constituted it.

National Sports Federations
- Framework Law on the Sports System - Article 21
- Decree-Law no. 144/93 of 26th April, amended by Decree-Law no. 111/97 of 9th May.

The Framework Law on the Sports System, by including in Article 21 the definition of the sports federation, objectively recognises the importance of these entities in the context of national representation for the various sports.

It is, however, Decree-Law 144/93 of 26th April, by establishing the juridical framework for the sports federations and the conditions for the granting of the status of a public sports utility that ensures the independence of its association-based organisation, provided that the principles of representativeness are guaranteed; i.e. the representativeness of its members - clubs or club groupings, district/regional associations, corporate bodies governed by private law - whose scope of action is limited to their own area of jurisdiction and who are entitled to a maximum of ¾ of the votes at general meetings, with the remaining ¼ reserved for the national associations that represent the interests of the athletes, trainers, referees, judges and others active in the field of sport.

Professional League of Clubs
- Law 1/90 amended by Law no. 19/96 of 25th June, Article 3.

The revision of the Framework Law on the Sports System (Law 19/96 of 25th June) introduced an amendment in Article 1 that called for the setting up, within the federations, of a league of clubs with and independent legal status and administrative, technical and financial autonomy with the express powers to:

- organise and regulate competitions of a professional nature;
- exercise disciplinary power and manage the learning sector;
- carry out the functions of regulation, control and supervision in relation to the clubs that are its members.

Sports Clubs
- Framework Law on the Sports System - articles 11 and 20.

Sports Companies
- Decree-Law no. 67/97 of 3rd April
- Law no. 107/97 of 16th December

Article 11 of the Framework Law on the Sports System, in that it placed the sports club amongst those entities that are entitled to receive support from the State, introduced the figure of the club in the general framework of the sports association movement.

Later, the amendments introduced by Article 1 of Law no. 19/96 of 25th June, define the concept of the club as a corporate body governed by private law who has as its objective the promotion of the practice of sport; confirm the possibility of the clubs taking the legal form of a non-profit making association provided that they do not participate in competitions of a professional nature; recognise the possibility of these clubs adopting the legal form of a profit-making Sports Company whenever professional teams do participate in competitions of a professional nature; and plans and promotes sports events and the advancement or development of activities related with professional sport in the type of sport in question.

The profits of the sports companies are exempt from corporate income tax when they are invested in facilities or in training activities, and sports clubs and the respective sports companies are required to submit organised bookkeeping records in accordance with the standards of the Official Accounting Plan.

Other entities - Sports Promotion Associations
- Framework Law on the Sports System - Article 27-A
- Decree-Law no. 279/97 of 11th October

Aimed at providing an incentive for the creation of new associations dedicated to the promotion of recreational and social activities not covered by the areas of jurisdiction of the sports federations, Article 2 of Law no. 19/96 of 25th June added to Article 27-A of the Framework Law on the Sports System the new entity of the Sport Promotion Association, upon which the status of public utility can be conferred and which, in order to qualify for support from the State, is subject to prior registration in the National Registry of Sports Clubs and Federations based at the CEFD (Centre for Sports Studies and Training).
The Sports Promotion Associations are regulated by Decree-Law no. 279/97 of 11th October.

Legal Provisions

Framework Law on the Sports System
- Law no. 1/90 of 13th January, amended by Law no. 19/96 of 25th June.

In defining the overall framework that governs the Portuguese sports system, the Framework Law, which recognises the important role played by sports activities in the harmonious development of the human being, establishes a set of guidelines, compliance with which the State is obliged to enforce in order to achieve the full implementation of the policies in the sector.

Stressing the importance of the educational, ethical and formative values in the areas of Recreational and High Performance sports – through the activities carried out by clubs, associations, schools and town councils - Law no. 1/90 of 13th January thus takes on the role of the Magna Carta of Portuguese Sports, in which the training of sports professionals and the regulation of the whole area of sport are assumed by the State as the entity responsible for establishing and ensuring the co-ordination of the various means and mechanisms placed at the disposal of the various sports agents.

Regulations Governing High Performance Sport
- Decree-Law no. 125/95 of 31st May, amended by Decree-Law no. 123/96 of 10th August.

In recognition of its fundamental role in the development of sports, as contained in Article 15 of the Framework Law on the Sports System, it is important that high performance sport is granted an appropriate status, duly inserted in the framework of the corresponding high performance sport.

Hence, with the objective of giving the high competition level a set of specific support measures especially adapted to the preparation needs of the respective athletes and with the aim of improving Decree-Law no. 257/90 of 7th August, Decree-Law no. 125/95 of 31st May may be regarded as a reform of the aforementioned law in that it provides for a set of measures that distinguish between those athletes already active in high competition and those who are in preparation for it. At the same time it clearly defines a number of support measures for high performance athletes, namely in the field of sports insurance and the school system.

For this purpose, and taking into consideration the responsibilities of the federations in the organisation of all sport at the high performance level, Article 8 of Decree-Law no. 125/95 of 31st May allows for the signing of programme contracts, which are specifically adapted to the objective to be attained in each type of sport, duly referenced by those federations that have been officially granted the status of sports public utility.

Sport Insurance
- Framework Law on the Sports System - Article 16
- Decree-Law no. 146/93 of 26th April

Article 16 of the Framework Law on the Sports System ensures the institutionalisation of a system of compulsory insurance for all athletes included in the formal practice of sport.

It was, however, Decree-Law no. 146/93 of 26th April that altered the legal framework governing sport insurance for the high performance level established by Decree-Law no. 257/90 of 2nd August in that it regulated the group sports insurance to be carried out by the federations, made it compulsory for all professional athletes to have a sport insurance, institutionalised a support scheme wide enough in scope to include all non-professional high competition athletes and imposed the creation of a compulsory insurance for sports competitions to be endorsed by the entities responsible for the organisation of competitions open to the public,

Licensing of Sports Facilities
- Framework Law on the Sports System - Article 36
- Decree-Law no. 317/97 of 25th November

Concretising the provisions laid down in the Framework Law on the Sports System, which confers upon the government and the town councils the responsibility for the development of an integrated policy on sports facilities and equipment and with the aim of improving the quality of the services to be offered in view of the widely diversified practice of sports that has led to a degradation of the facilities, Decree-Law no. 317/97 of 25th November provides the legal framework for the installation and operation of sports facilities open to the public, defines and classifies the various types of facilities and, finally, defines the regulations with which the various applications for licences for sports facilities must comply.

Anti-Doping Legislation
- Framework Law on the Sports System - Article 5
- Decree-Law no. 183/97 of 26th July
- Administrative Rule no. 816/97 of 5th September

Placing particular importance on problems of an ethical nature, which include all doping-related issues, Article 5 of the Framework Law reiterates the role of the State in the defence of these values and provides for the adoption of measures against doping.

Hence, Decree-Law no. 183/97 of 26th July reinforces this requirement, revoking Decree-Law no. 105/90 of 23rd March by prohibiting the use of doping substances by all athletes registered in the sports federations and imposing the publication by the said federations of a list of doping substances. The law also defines the standards for control and the respective disciplinary measures applicable to the athletes.

Together with Decree-Law no. 183/97, Administrative Rule no. 816/97 of 5th September establishes all the standards for regulating the anti-doping control actions in sport.

Legislation on the Prevention and Punishment of Sport-Related Violence
- Resolution of the Portuguese Parliament no. 11/87
- Decree-Law no. 270/89 of 18th August
- Framework Law on the Sports System - Article 5
- Law no. 8/97 of 12th April

Violence, which is seen as a growing sign of anti-sports behaviour, is also a concern of the State. For this reason, Decree-Law no. 270/89 has introduced a set of provisions aimed at solving the problem. The decree-law is to take effect in coherence with the European Agreement on Violence and Spectator Excesses at Sports Events drawn up by the Council of Europe and ratified by the Portuguese Parliament.

Article 5 of the Framework Law on the Sports System states that is the duty of the State, in its role as legislator, to adopt suitable regulations for the prevention and punishment of all types of anti-sports behaviour.

Legislation on Corruption in Sports
- Framework Law on the Sports System - Article 5
- Decree-Law no. 390/91 of 10th October

Reiterating the duties of the State in the area of the protection of ethical values, Article 5 of the Framework Law on the Sports System assumes this protection, conferring upon the State the role of adopting the adequate measures to achieve this end.

In this sense, Decree-Law no. 390/91 of 10th October is conclusive as far as the nature of the code of principles to be observed in the world of sports is concerned, listing the acts that are liable to punishment as well as the penalties to be applied.

Financing

Framework Law on the Sports System - Articles 33 and 34

Giving legal form to the obligations of the State in relation to the support to be given to the sports association movement, Article 33 of the Framework Law on the Sports System, confers this obligation on central government by means of the granting of subsidies.

Article 34 deals with the question of subsidies, which must take the form of detailed programme-contracts for sports development, particularly as far as their characterisation, cost quantification and the respective evaluation of the autonomy of human and material resources are concerned.

Activities Financed within the Scope of Programme-Contracts
- Decree-Law no. 432/91 of 6th November

Due to fact that the principle of exclusivity of the subsidies on the basis of the signing of programme-contracts for sports development is already defined in the Framework Law, it was necessary to define the respective regulations applicable for the sports associations as well as identify the beneficiaries of these subsidies.

This, in short, is the express purpose of Decree-Law no. 432/91, which regulates programme-contracts as far as their objectives and contents, signatory parties, contractual initiative, period of validity, follow-up, control and termination are concerned.

The process phases can involve the sports federations, the associations registered with them and even the clubs themselves, in addition to the Portuguese Olympic Committee.

The purpose is to support and finance a whole series of activities included in the programmes for the development of sport carried out by the above-mentioned entities with particular emphasis being placed on:

Regular Action Plans carried out by the entities that manage the practice of the various types of sports;

Specific Action Plans, with particular relevance for the high performance level;

Projects for the Construction and Improvement of Infrastructures and Equipment;

Initiatives aimed at the development of sports activity in the fields of training of sports agents, documentation and research;

Activities of bilateral co-operation carried out with other Portuguese-speaking countries, European countries or Latin-American countries;

The Olympic Project in its quadrennial cycle.

ROMANIA

SPORTS LEGISLATION IN ROMANIA

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I. GENERAL REMARKS

This study is the reply to the letter sent out by the CDDS in March 1996 concerning the impact of public law on sport in Romania.

It is divided into two parts:

I. General remarks
II. A short summary of Romanian sports legislation.

We will make partial use of the report drawn up by Great Britain as a guide (although Romanian law is in fact closer to the French than the English model).

Our work aims to give more detailed answers to the questionnaire on sport than we were able to give at the Seminar in Paris on 25 and 26 October 1995, with particular emphasis on the above-mentioned points.

Clubs and sports associations are either private-law organisations (set up on the basis of the constitutional right to freedom of association; they are financially independent) or public-law organisations (clubs and sports associations being answerable to the ministries) which are financed both by their own income (sponsoring, proceeds from television broadcasting and advertising as well as from other economic activities that are compatible with their aims) and by State subsidies.

National sports federations are independent organisations which are answerable to the Ministry of Youth and Sport; sports federations are financed by State subsidies and other legal forms of income (sponsoring, proceeds from television broadcasting and advertising, donations and other economic activities that are compatible with their aims).

Clubs, sports associations, public institutions and national sports federations employ both salaried and voluntary staff.

The Romanian Olympic Committee is also complex due to the fact that it is an independent body undertaking activities on the basis of its own statutes, drawn up in compliance both with the Olympic Charter and the Romanian Government's Decision No. 124/1991 on the Committee's organisation and functioning, which was republished in 1995. The Romanian Olympic Committee is financed by State subsidies and by other legal forms of income.

The Romanian Olympic Committee, in conjunction with the Ministry of Youth and Sport and the national Olympic federations which have the backing of the Ministry of Education, run the National Olympic Centres responsible for preparing juniors.

The local directorates of youth and sport and the local education inspectorates are extensively involved in the running of these centres.

The aim of the Olympic centres is to provide the conditions required for preparing talented young athletes for high-level sports competitions while they complete their school education or vocational training.

The national Olympic centres mainly provide training in the individual sports included in the Olympic programme.

These centres are run by sports and education bodies which can provide the technical and material conditions required for 4 to 5 hours of sport and professional training every day.

The Ministry of Youth and Sport, which is a specialised central government body, relies on the services provided by the following bodies (which are answerable to it):

- **decentralised public services** (local directorates of youth and sport) in each administrative region; this includes entities which have no legal personality and the purpose of which is to operate, maintain and equip national sports centres and to provide youth and sports services.

The running costs of these entities are financed by income other than the State budget and subsidies.

- **national sports complexes** are sports bodies specialising in the organisation of training camps which prepare athletes for Olympic and national teams with a view to their participation in international competitions.

- **the Centre for Study and Research into sports problems and the Sports Museum** are also responsible to the Ministry of Youth and Sport.

II - COMPENDIUM OF NATIONAL SPORTS LEGISLATION

1. The Romanian Constitution (1991)

Article 45 of the Constitution highlights a fundamental right of citizens which might be called the right of children and young people to protection and assistance. This article gives legal substance to children's and young people's entitlement to such protection and assistance because they are the nation's human potential. The State therefore has a duty to provide children and young people with the conditions required to further their well-being so that they can participate in the country's political, social, economic, cultural and sports activities.

2. Government Decision No. 462/1994 on the organisation and functioning of the Ministry of Youth and Sport, republished in 1996.

Since there is as yet no sports legislation, this Government decision is considered to be the "law" governing the following points:

6.1 The Ministry of Youth and Sport is the central public authority specialising in the implementation of Government strategies and policies for the promotion of youth and sport.

6.1.1. The Ministry has the following specific powers in the field of sport:

1) It fixes guidelines for the promotion of sport for all, with a view to raising the level of physical fitness and preserving the health of the population;

2) It draws up the general strategy for organising and promoting high-level sports which is extended to include professional sports in as far as the required conditions have been established.

3) In conjunction with the Romanian Olympic Committee, it is responsible for the selection, preparation and participation of Romanian athletes in Olympic competitions.

4) It co-operates with the Ministry of Education in organising and promoting school and university sport, co-operates with the Ministry of Health in setting up and developing medical institutions providing special assistance to top athletes;

5) In conjunction with public authorities and institutions in the socio-cultural field, it is responsible for the equipment required for sports activities;

6) Within the limits of the funds allocated to it by the State budget each year, it finances sports federations and clubs;

7) It lays down technical and methodological standards, as well as standards for the organisation of sports activities;

8) It organises and supervises all aspects of the activities organised by its own sports bodies; it manages the other sports bodies and ensures that their techniques and methods are supervised.

6.1.2. The Ministry of Youth and Sport is responsible for entities such as:

1) the directorates in each administrative region which are decentralised services;
2) federations and clubs;
3) national sports complexes;
4) the Sports Museum;
5) the Centre for Research into sports problems;

The above-mentioned entities are financed by extra-budgetary receipts and State subsidies.

It should be pointed out that, under the terms of this Decision, the sports federations are independent bodies with a legal personality and their own statutes. They manage, organise and are responsible for sports activities in their discipline.

2.1 Orders issued by the Ministry of Youth and Sport

- the general rules governing the attributions, organisation and functioning of the Directorates of youth and sport;

- the general rules governing the organisation and functioning of national sports federations;

- the general rules governing the organisation and functioning of sports clubs;

- the general rules governing the organisation and functioning of national sports complexes;

- the regulations governing the organisation and functioning of national Olympic centres for the training of juniors.

3. Government Decision No. 124/1991 on the organisation and functioning of the Romanian Olympic Committee, republished in 1995

7.1 The Romanian Olympic Committee is an independent non-profit-making body which conducts its activities in accordance with the Olympic Charter and its own statutes.

7.2 The Romanian Olympic Committee fosters the development of the Olympic movement, encourages support for it and promotes young people's interest in sport.

7.3 The Romanian Olympic Committee ensures that Romania is represented at the Olympic Games and in other competitions organised under the auspices of the International Olympic Committee.

7.4 The symbols of the International Olympic Committee and the emblem of the Romanian Olympic Committee are protected under the terms of the Olympic Charter.

7.5 The Romanian Olympic Committee is financed by:
- appropriations from the State budget;
- sponsoring;
- donations by both national and non-national individuals and organisations;
- its own income.

4. Law No. 31/1996 concerning State monopoly

This law provides for a State monopoly of certain economic activities.

The Romanian Olympic Committee is licensed to carry out the following activities:

- to organise and operate <systems of direct or simulated betting><betting systems>;

- to organise and operate sports forecasts.

5. Government Order No. 10/1996 concerning the improvement of the system for financing sports entities from extra-budgetary sources and State subsidies, and of the system for the remuneration of the staff of such entities

provides that:

9.1 - sports entities financed by extra-budgetary revenue and subsidies from the State budget may retain all such revenue to finance their activities;

9.2 - on the basis of a contract drawn up with the management of each entity, the main government bodies responsible for authorising budgetary appropriations fix the minimum number of activities or programmes to be financed by the amounts allocated.

6. Government Decision No. 280/1994 concerning the regulation of certain financial aspects of sports activities, republished in 1996

This Decision governs the use of budgetary appropriations granted for:

A. National activities:

- training camps;
- short training camps;
- pre-competition training camps;
- number of athletes, coaches, technicians;
- sports events;
- travel expenses;
- accommodation expenses;
- costs of meetings, specialisation courses; press conferences, etc;

B. International activities

- trips abroad;
- travel expenses, accommodation, meals, periods of rest after competitions;
- expenses for visiting delegations.

C. Costs of meals

The amount is fixed by the directorate of sports federations, according to the discipline in question, the standard of the athletes, the catering unit and in accordance with approved budgetary allocations.

D. Other expenses

Sports entities must pay rent for the use of sports facilities for training.

School and university sports clubs are entitled to a reduction of up to 50% in the hourly rent charged to other sports entities.

For other activities (shows, concerts, etc), the operators of sports facilities are entitled to charge the rates fixed by law. In exceptional cases the Ministry of Youth and Sport may approve the free use of its facilities, depending on the importance of the activity or the standard of the sports entity.

Priority in the use of sports facilities is given, as follows: to members of Olympic and national teams and to other categories of recognised elite sportsmen.

E. Prizes

The Ministry of Youth and Sport, the Romanian Olympic Committee, the Ministry of Education and other central government bodies responsible for sports entities, associations and sports clubs may, having due regard to the law, award prizes, in Romanian currency or in kind, to athletes who have performed exceptionally well in competition. These prizes are awarded on the basis of performance, the importance of the competition and personal contribution.

Prizes are also awarded to coaches and other technicians (instructors, researchers, pianists, ballet masters, etc).

F. Remuneration

Athletes who have won medals at the Olympic Games and at World or European championships, and also coaches and teachers involved in the centralised training, are paid from the budget of the sports federations.

7. Law No. 32/1994 on sponsoring

This law provides the legal framework within which a sponsor and a beneficiary agree on the financial terms, the additional equipment to be placed at the athlete's disposal and the duration of the sponsoring.

Any national or non-national person or organisation who enters into a sponsorship agreement under this law is considered to be a sponsor.

Romanian nationals or organisations may not enter a sponsorship agreement using resources obtained from the state budget.

Any public benefit company registered in Romania which undertakes or intends to undertake humanitarian, philanthropic, cultural, artistic or sports activities, is entitled to sponsoring.

The sponsor or the beneficiary may only make the sponsoring public by promoting a name, a make or an image.

The financial advantages provided for by the law are as follows:

Romanian nationals or organisations involved in sponsoring are entitled to a reduce the equivalent amount from their taxable income, but no more than 5% of such income, save in the case of the salaried income of individuals.

Persons or organisations who owe tax on income earned in Romania but who engage in sponsoring are entitled to a reduction in their taxable income which is the equivalent, in Romanian currency, of the amount involved in the sponsoring, calculated on the basis of the exchange rate on the date of payment but no more than 5% of their taxable income.

Beneficiaries of sponsoring are exempted from the payment of value added tax on proceeds from sponsoring.

8. Law No. 32/1991 concerning income tax, republished in 1996

This law provides for considerable fiscal advantages by exempting athletes, coaches and sports technicians from the payment of tax on financial rewards for attaining the following high-level objectives:

- a medal-winning place at European or World championships or at the Olympic Games;
- qualification and participation in European or World championships or in the Olympic Games;
- participation in the final stages (last sixteen) of inter-club competitions.

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9. Government Decision No. 123/1991 on promoting convertible currency earnings in sports activities

9.1. The Ministry of Youth and Sport, the Romanian Olympic Committee, the sports federations and entities may earn convertible currencies from the following sources:

- participation by Romanian athletes in international competitions;
- transfer fees;
- sponsoring, etc

9.2 Revenue in convertible currencies earned by clubs through the activities mentioned under item 10.1 is distributed as follows:

a) 65% for the activities of the club in question;
b) 25% for the Ministry of Youth and Sport - development and assistance fund;
c) 10% for the relevant federation ;

9.3 The federations' convertible currency earnings are distributed as follows:

a) 75% for the activities of the federation in question;
b) 25% for the Ministry of Youth and Sport - development and assistance fund

10. Law No. 84/1995, Education Act, republished in 1996

This law governs the organisation and functioning of the national education system.

Below we mention some aspects of this law which are relevant to this report:

5.1 The State and other interested parties subsidise the high-level, national and international activities in which pupils and students participate;

5.2 Sports education is organised for the benefit of pupils with special abilities in this field, from primary school onwards;

5.3 as regards high-level sports, the Ministry of Education may organise school clubs, schools and colleges with a special sports curriculum;

5.4 with regard to the organisation of high-level sports activities, the Ministry of Education organises sports camps, competitions, championships and festivals; it also awards grants and provides other forms of material support;

5.5 The Ministry of Youth and Sport is obliged to provide financial and material support for high-level sports activities;

5.6 University autonomy is also exercised through the organisation of their own sports activities;

5.7 Alongside the Ministry of Education there is also the Federation of School and University Sports, a body with legal personality. The Federation of School and University Sports is run jointly by the Ministry of Education and the Ministry of Youth and Sport.

5.8 Educational amenities also include sports grounds and facilities (playing fields, stadiums, board and lodging facilities).

5.9 Pupils and students are entitled to reduced rates of up to 50% at sports events organised by public institutions.

5.10 Extra-curricular sports activities, and those for pupils capable of outstanding performance, are financed by the national budget as are sports camps.

11. Government Decision No. 537/1991 concerning the salaries and rights of professional football players, club and Romanian Football Federation coaches

Football has now been recognised as a profession.

In accordance with this Decision, the Ministry of Youth and Sport has approved, by decree, the regulations for professional football. This is a legal act drawn up by the Romanian Football Federation by means of which the footballers of the national division enter into contracts with the professional football clubs, in accordance with labour legislation.

The joint decree issued by the Ministry of Labour and Social Protection and the National Statistics Commission on the approval of the classification of occupations in Romania includes the categories of professional footballer and professional football coach.

11.1 The rules drawn up by the Romanian Football Federation, in accordance with the rules of the FIFA and the UEFA

- Regulations governing the organisation of football activities;
- Disciplinary regulations;
- Regulations governing the status and the transfer of Romanian footballers;
- Regulations governing the status of Romanian football coaches;
- Regulations governing the activities of football players' organisations;

Prior to 1989, the following Acts on sports activities were in force in Romania:

1922, the Act on the status Romanian sports federations;
1923, the Act on physical education and pre-military preparation
1929, the Physical Education Act;
1930, the Royal Decree on physical education in the army;
1960, the Act concerning the organisation of Romanian sport
1966, the Physical Education Act

1. Law No. 29/1967 on the promotion of physical education and sports activities, republished in 1977

This law has not been explicitly repealed and contains not only provisions which are now inapplicable but also stipulations such as:

1.1 Physical education and sports activities are in the national interest.

1.2 Physical education and sports contribute to the preservation and improvement of health, the development of physical and intellectual capacities, good use of leisure time and the harmonious physical and moral development of the population.

1.3 The State supports the development of physical education and sports with a view to achieving the above-mentioned objectives.

1.4 Sports organisations

1.4.1. Sports federations are public organisations specialising in a particular branch of sport. They are financed by subsidies from the State budget and other revenue. The federations' activities are carried out in accordance with the law and in compliance with the federation's own statutes.

1.4.2. Sports associations are public organisations which organise sports activities (sport for all); they are legal entities;

1.4.3. Clubs are public organisations which organise high-level sports activities. They are legal entities.

The associations and clubs organise and conduct their activities in accordance with their own rules, programmes and budgets.

Under the above-mentioned law, sports associations may be organised within economic entities, educational institutions, military bodies or ministries.

In view of this legal provision, there are now sports associations (clubs) in Romania which come under the Ministry of Defence, the Ministry of the Interior, the Ministry of Education and the Ministry of Transport.

SLOVAKIA

SPORT AND LEGISLATION IN THE SLOVAK REPUBLIC

Compiled by the Department of Sports
of the Ministry of Education
of the Slovak Republic
- October 1997 -

INTRODUCTION

Sport in the Slovak Republic is an autonomous phenomenon organised basically on a non-governmental and voluntary level.

Nevertheless the sports movement needs an international and administrative support from the state's authorities on all the levels to guarantee the harmonic and equilibrated development of sport.

The ongoing long-term transformation process of the society in the Slovak Republic has a deep influence on sport. Previously strongly centralised and state directed structure of sport has disintegrated into many independent subjects covered by a couple of umbrella organisations.

Also the public structure of the sports administration has undergone important changes. The installation of new regional structures has evoked amendments in the organisation of the bodies responsible for the sports on local level.

This paper provides a brief overview of the current status of the organisation of sport in the Slovak Republic, its legislative framework and the financial support of sport.

The following sections of the paper cover:

1. the structure of sport in the Slovak Republic,
2. key pieces in legislation,
3. funding for sport.

Section 1: STRUCTURE OF SPORT IN SLOVAKIA

a/ At national level:

Ministry of Education – Central body of state administration for physical education, sports and tourism.

Department of Sport – administers and controls state policy in the area of physical culture, specifies dominant tasks and actual projects of the development of physical culture. Creates the conception of physical culture and co-ordinates its realisation, elaborates the conditions for the development of sports for all, supports the activities of subjects operating in the field of physical culture, supports the organisation of important international sports events in the Slovak Republic, co-ordinates anti-doping programme in Slovakia, distributes licenses to persons active in the area of sport.

Department of Education – responsible for the physical education and whole area of school sports in the national curriculum at all levels of schools and universities.

Physical education is a compulsory subject with 2-3 hours per week in 6-14 years old children.

Ministry of Defence – provides a substantial assistance to competitive sports. It develops high level sports in the army centres, has a responsibility for the provision of sports facilities within the armed forces.

Ministry of Interior – manages competitive and elite sports and sports representation in the domain of Police's Sports Clubs.

Ministry of Health – supports and supervises the health care for the competitive athletes, sports talented youth and sport representation of the country. It participates in the anti-doping activities in sport.

Ministry of Finance – responsible for policy and planning of tourism, licensing and drafting the lotteries and sport pools.

Ministry of Environment – responsible for planning and regional development (permission of the construction of new sports facilities), conservation of the environment.

b/ at-local level:

Local authorities – perform state administration by enforcing state policy in the sphere of physical culture. They are responsible for the development of sport activities at the regional level, build up and maintenance of sports facilities used for leisure sport.
They support the selection and preparation of sports talented youth, promote the sports activity of disabled people.

NON-GOVERNMENTAL STRUCTURES:

Sports federations – autonomous bodies responsible for the administration and regulation of individual sports. They are about 80 independents sports federations covering 100 different sports.

Slovak Olympic Committee – independent organisation responsible for the development of the Olympic movement in the Slovak Republic. It designates the participants of the Olympic Games, makes arrangements for their participation, protects the Olympic symbols, co-operates with the NOC of other countries. It supports the preparation and training for the talented athletes in the Olympic sports.

Slovak Association of Physical Culture – serves as an umbrella organisation for most of the sports federations and offers them common services. Manages sports facilities for high level sport. Represents and co-ordinates the mutual interests of its member organisations at all levels. Within the organisational structure of the association all the members are autonomous.

Slovak Anti-doping Committee – independent subject regulating the anti-doping activities in Slovak Republic. In co-operation with the state administration and sports federations it organises anti-doping controls of athletes, performs education and propagation of healthy and drug and doping free sports activities. The anti-doping committee oversees the application of the anti-doping rules by all sports federations.

Slovak Association of Technical Sports – promotes the development and represents the interests of technical sports (rifling, shooting, biathlon, automotoclub, motosport, aviation, parachutism, diving, kynology).

Section 2: LEGISLATION

The first laws on sport in Slovakia after World War II were: Act on State Care of Physical Education and Sport (1949) and Act on the Organisation of Physical Education and Sport (1952). They imposed a centralised structure on sports movement.

This situation has changed in 1990 by the new Act on Physical Education and Act on Citizens' Associations which permitted the right freely and voluntarily to form associations. This opened space for the transforming process of all subjects in physical culture.

The separation of Czechoslovakia in 1993 added a new dimension to the ongoing changes of physical culture in the Slovak Republic. The new state adopted all the effective acts and decrees of the previous common state and adopted a new Constitution.

Physical Culture Act 288/1997

The latest legal regulation on Physical Culture and Sport determines the aims of physical culture in society, the responsibility of the governmental, local and non-governmental level (sports organisations, physical subjects and civil organisations). The act designates the responsible structures involved in the administration of sport, it establishes the subjects responsible for the distribution of licenses in sport, finance resources in sport.

Decree on Citizens' Associations 83/1990

The decree permitted new subjects of physical culture to be set up by registering with the Ministry of Interior. Their legal subjectivity was sanctioned and this also opened space for the transforming process of all subjects of physical culture.

Education Act 469/91

It has amended to the Physical Culture Act the sphere of training and education of experts in specialised professional activities in physical culture. This has also permitted business enterprising to be persued.

Decree 134/90 on Lotteries and other similar games

This law, through decisions of the Ministry of Finances in a great measure affected the choice of the operators from the takings for the need of physical culture.

Decree 315/92 on Public Sports, Physical Culture and Touristic Events

The decree legislatively resolves the question of safety and organisation of important international events in physical culture, sport and tourism.

Decree 264/93 on State Fund of Physical Culture

A decision adjusting the mode of acquisition, record-keeping and distribution of resources of the national budget, proceeds from lotteries and other such games, as well as further sources into sport.

Decree 216/94 on the protection of the Olympic symbolism and the standing of the Slovak Olympic Committee.

Decree 347/90

Deals with the competence of various boards of the public administration in physical education.

Decree 295/93

Ratification of the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches.

Decree 262/92

Ratification of the Anti-doping Convention of the Council of Europe.

Decree 369/90 on public establishments

Decree 222/96 on the organisation of local public establishments

The laws deal with the organisation of the regional and local state administration inclusively sports administration on the governmental and local level.

Education act 1991

Deals with national curriculum and imposes the number of hours of physical education in primary and secondary schools.

The domain of physical culture is to a considerable extent affected by numerous generally valid prescriptions. Among the weightiest ones we may list, in particular, the law on the state budget, budgetary rules, the trade and business code, but especially prescriptions relative to tax, customs, fees and further items.

Other important decrees having influence on sport in Slovakia:

Environment act 1992
Public health act 1993
Custom act 1991
Import tax act 1992
Planning and construction act 1992
Act on public sports and touristic events 1992
Amendment on state nature reservations 1993
Youth fund act 1993

Section 3: FUNDING OF SPORT

The government has accepted a Programme for the Transformation of Physical Culture whereby a basic framework has been created for defying the state's concrete financial policy in the domain of physical education and sport in the Slovak Republic.

The government has taken guarantees over the decisive areas of physical culture and sport, such as national sports representation, care of sport-talented youth, sport for all, capital construction, etc. The tasks should be ensured primarily by the principal instruments regulating money flows from central sources, i.e., the national budget and the state's fund of physical culture.

The state is the main sponsor of sport. The financial resources from the state budget allocated to the Ministry of Education for sport are divided to sport on all levels: national sports representation, care of sports-talented youth, the sport for all, construction of facilities. The overall amount of these resources depends on the income of the state budget and the prosperity of the economy. The Physical Education Act ensures a revenue of 0.5 % of state budget to sport.

The state budget also embodies expenditures for the Ministry of Defence and the Ministry of Interior, that are related to the implementation of the state's care of physical culture.

State's fund of physical culture: The revenue from lotteries and pools depends on the economical results of the companies active in this field. A particular part of the earrings is earmarked for sport.

The total amount of funds available to sport in 1997 was 1 billion Slovak crowns.
The unknown sum of money comes to individual sport federations and other civic organisations active in the field of sport directly from sponsors.

At local level: The Ministry of Interior distributes financial resources directly to local authorities. Regional authorities support financially the physical education, local sport activities and maintenance of sports facilities from their own budget. Local sport organisations' funds are created by the membership fees of the individual members, support from the local authorities and above all depend substantially upon sponsorship.

SLOVENIA

SPORTS LEGISLATION IN SLOVENIA

Compiled by the Ministry of Education and Sport
May 1997

- The field of sport has till now not been subjected to legislation, even if such legislation is known by many European countries, also we have accepted certain European documents which will be implemented in the proposed law.
- Legislation enables development of sport and ensuring better material, personnel and educational possibilities.
- Offers a better protection and security to sports active citizens, especially youngsters and top athletes, from health risk and introduces safety also of other participants in sports.
- Provides a national system of regulated status of top athletes.
- Defines ownership relations of sport facilities, their management and principles, standards and recommendations for their planning, construction, equipmentand maintenance.
- Defines and ensures state budget funds for the realisation of the "national programme" of sport.
- Gives a conceptual definition of global tasks, financed by the state from public funds (state and local budget).
- Clears up a chaotic state of sport system and its inter-dependant social sciences and the connected activities, affecting the global development of sport and vice-versa (medicine, schooling, tourism, defence etc.), here protection of nature should also be incorporated with certain areas reserved for sport.
- Distributes the tasks between governmental and non-governmental organisations in sport.
- Sets up principles and standards for candidates organising big sport events.
- Envisages changes of the system of managing and financing of those areas that affect sports. With the change from the old system of sports associations and the shift of their tasks to state management and also the change to "market economy" the existing legal "blank" became evident, one, which needs to be filled up by new legislation.

AIMS AND PRINCIPLES OF THE LEGISLATION

The basic aims of our legislation are:

- to define the scope, and the content of the so-called public interest in sports
- to define sport activity and their performers
- to define the national programme and the modalities of it's financing
- to define a network of public sport facilities for the realisation of the national programme
- to define public institutions and their working area, private practice in sport, status of sportsman and top athletes, their rights and obligations, professional work in sport and models of

qualification acquisition, health care of sportsmen, sports events and the obligations of their organisers, inspection (control) in sports and its content and system of operation

- to assure the collection and keeping of information data on: top athletes and other sportsmen, those employed in private practice in sports, professionals in sport, those carrying out the national programme, sport facilities, international sport events and public offices in sport

In the preparation of that legislation the following principles were observed:

- the principle of unrestricted access to sport activities,
- the principle that all sport activities are "public goods",
- the principle of professionalisation in sport,
- the principle of individual freedom in deciding on participation in sport activities,
- the principle of free selection of sport (discipline)
- the principle of the participation of the sport professionals, sports experts and qualified public in sport policy formation,
- the principle of professional autonomy in the management of the public offices of sport
- the principle, that tax policy is also functioning as an instrument of sport policy

PROPOSED SOLUTIONS

The proposed legislation deals only with areas of sport which are of public interest within the organised sports movement where public finances are subsidised for the activities. It deals furthermore with the areas of general conditions for practising sports activities in order to have unique standards for all the performers of sports activities.

The legislation defines the common public needs in sport and the common issues of the National Programme for sport which is adopted by the Parliament and defines the financial resources of the central budget for the execution of the National Programme.
The scope of National Programme is: the principles and aims of sports policy, the extent and the standard principles for the distribution of the public funds for the activities in certain areas of sport. Besides that our legislation is trying to indicate that funds for the functioning, investments and maintenance of sports facilities carrying out the national programme of sport shall be provided by the state. The state should also provide finances for certain rights of the athletes such as medical insurance, social insurance, insurance in case of injuries and disability insurance, maternity insurance and modification of studying and sporting obligations. On the basis of this legislation the state shall provide resources for the functioning of the National Olympic Committee.

The legislation introduces public institutions at the national as well as at the local level to carry out the administrative, professional, organisational, technical and other tasks.

It also introduces new terms such as private sportsman (athlete) and a private sports employee the being new recognised professions.

The legislation introduces the requirement that everyone doing a professional work in sports should have an adequate education or an acquired skill which is defined by the Council of Experts on sport of the Republic of Slovenia after a prior statement given by certain authorised organisations.

The new legislation deals also with the medical insurance which is based on the prior medical examination of the athlete's abilities when competing in the official competitions organised by national sports associations.

The definition of big sports events is introduced by this legislation and the proceedings and the conditions for the candidates to organise big sports events are clearly defined.

The legislation envisages the introduction of the National Network of Sports Facilities to serve as a basis for the urban planing of facilities' construction, adaptation and modernisation. The system of the use of the facilities is in accordance with the importance of the national programme of sport.

It proposes the introduction of The Council of Experts on Sport in the Government of The Republic of Slovenia to function as an advisory body in decision making in the national sports policy and a special Committee for Sport on the local, municipal level.

FINANCIAL CONSEQUENCES OF THE NEW LEGISLATION

The introduction of the new legislation does not require additional financial resources for sport but only a redistribution of the existing funds within different areas of sport.

Gradually in realising the final goal which is to raise the number of sports active population from 12% to 50% and to attain a balanced development of sport in Slovenia we expect to approach the developed European countries where about 0,2 - 0.4% of GSP is spent on sport.

EXPLANATION

The proposed legislation manages the segment of sport which is in the public interest and therefore demands a unified legislative regulation. It is based on the recommendations of the Council of Europe and the solutions arrived at in certain developed countries, while observing the specificities and the level of development of sport in Slovenia.

The law defines in its general articles the public interest in sport. This deals with sport education, sport recreation, competitive and top sport. These segments also include the sport activity of students and the disabled. The law defines those tasks that are of national importance and which will be financed from the state budget and local budgets. The law postulates that certain tasks defined by the minister in charge of sports and for which the Sport Council of the Republic of Slovenia has given approval, can be carried out by any organisation or professional as a profit or non-profit activity, if there are no special conditions prescribed for them.

The proposed law defines the so-called national programme, the mode of its definition and acceptance and the basic premises for the definition of its content. The execution of the national programme is ensured with an annual programme, both at the state and the local level (communes). This annual programme should define: sport programmes (co)financed by the state or commune, the extent and type of activities needed for its execution and the amount of finances ensured from the state budget. The annual programme is carried out by those explicitly enumerated in the law. Among those that apply (publicly announced) the ministry charged with sport chooses those that will carry out the programme and signs contracts with them, defining the content and extent of programme, deadlines, expected achievements, amount of finances from the state budget and other rights and obligations of both parties. The mode and procedure of selection of those carrying out the annual programme, its (co)financing and monitoring with be defined in detail by the minister in subservient legislature.

The government of the Republic of Slovenia constitutes, at the latest in three months after the law is in use, the Sport Council of the Republic of Slovenia, which will deal with professional matters in sport at the local level (communes) and for professional help in decision-making and preparation of further legislature in sport. The communes can constitute similar sport councils also at the commune level.

Cared-for and well-equipped sport facilities (outdoor and indoor) form the infrastructure for sport. Those belonging to the state or commune are defined in the proposed law as public sport facilities. The proposed law ensures the right of use of public sport facilities for all organisations (clubs) offering sport activities. The privatisation of public sport facilities will be regulated by a separate law. As the basis for planning a geographically balanced network of sport facilities, taking into account existing ones, guidelines for building new ones and renewing those needing reconstruction will be made. Public sport facilities must be used to serve everybody's needs and for the purpose they were built for. In case of a need for other uses, the decision is made by the commune council after consultation with the Sport Council. Also an alternate facility must be designated to serve the needs previously satisfied by the original facility. The organisation or person managing the facility of commune property can be changed in agreement with the commune council and in consultation with the sport council. All existing sport facilities are entered into a data-bank, managed by the ministry charged with sport. Those that are carrying out the national programme are given preference in their access to sport facilities, all other parameters being equal. Before them, preference is given to compulsory and choice school-sport programmes that are carried out in public sport facilities. For planning, construction, equipping and up-keep of sport facilities being used by organisations or persons carrying out the annual programme, even if private and used for profit activities in sport, the minister charged with sport prescribes norms, standards and recommendations, after consulting the minister charged with environment and space planning and possibly also other relevant ministers.

For the execution of administrative, professional, organisational, technical and other tasks the state or the commune can constitute a public office for sport. Co-founders can also be other organisations or persons. This office is managed by a council (board) made up of the representatives of the founder, the office employees and those carrying out the national programme. For all matters not defined by this law, the Law on Offices (UL RS, {t. 12/91) should be used.

Whoever carries out professional work in sports (i.e. educational and professional-organisational work) must have adequate professional training (education). Adequacy of formal education is defined by the Sport Council of the Republic of Slovenia after consultation with the Olympic Committee Of Slovenia and the Faculty of Sport, while for sufficiency of training the opinion of the relevant National Sport Association is also required.

The law states that all persons carrying out educational work in sports education and are employed full-time must have higher education (at least three years of study after secondary school). For all that do not have the necessary qualification on level of education and unless they have completed a two-year higher education course and have more than twenty years duration of employment, they must complete their education in eight years. Professional employees with at least two-years higher education can be promoted. The requirements, mode and procedure for promotion are defined by the minister charged with sport. Professionals, having adequate qualification must obtain an attestation on their qualification from the organisation carrying out the qualification process. On the basis of such certificates, the Olympic Committee of Slovenia issues time-defined licences for professional work in sports. Foreigners carrying out (for a limited period) certain programmes or co-operating in them must conform to the same conditions that are required for professional work in sport in Slovenia.

This law defines two professions, self-employed professional in sport and "self-employed sportsman". A self-employed professional can be anyone who has an adequate qualification (education), prescribed by the Sport Council of the Republic of Slovenia, is not employed full-time, holds a licence if it is required, speaks Slovene, has a permanent residence in Slovenia and has not been prohibited (by court) from performing work in sports. The procedure for acquiring the status of a self-employed professional in sports will be defined by the minister. A register of self-employed professionals is kept by the ministry charged with sport. A self-employed sportsman can be anyone who is over fifteen, is a member of a national sport association and active sportsman, is not employed full-time and has a permanent or temporary residence in Slovenia. The procedure for acquiring the status of a self-employed sportsman will be defined by the minister. A register of self-employed sportsmen is kept by the ministry charged with sport.

The law delimits the status of top and other sportsmen. A sportsman is every person who is registered with a national sport association and competes in official competition systems of national sports associations. A top sportsman is that person who achieves a top sport result of international value. The criteria for a "top sport achievement" and the duration of such a title is defined by the Sport Council of the Republic of Slovenia at the suggestion of the Olympic Committee of Slovenia. The title of top sportsman is awarded by the Olympic Committee of Slovenia. This status enables the top sportsman to gain his/her rights defined by law: the right to medical, accident, pension and invalidity insurance, the right for maternity care and the right for modifications in the process of fulfilling his/her obligations in an educational programme. The procedure for acquiring the above-mentioned rights is prescribed by the minister charged with sport. Those top sportsmen that achieve the category "world class" and do not surpass double the national earning average in Slovenia, can be granted (at their request) state financing of their contributions to the compulsory pension and invalidity insurance, accident, for compulsory health insurance in maternity care from the state budget. The conditions and procedures for such grants will be defined by the government, while the minister charged with sport decides about the individual requests.

In accordance with the law the individual that has acquired the status of a top sportsman also has certain obligations defined by law: upon invitation (s)he must attend the competitions of the Slovenian national selection and observe the international and national sport association regulations and norms of sport ethics and morale. In case of non-fulfilment of such obligations the rights coming from his/her title of top sportsman can be restricted or taken away by the minister charged with sport, after consultation with the relevant national sport association.

In the chapter on medical care of sportsmen, optimal care of the health of the sportsmen is ensured through regular and periodic medical check-ups, financed by the Office for Medical Insurance of Slovenia, by not asking the sportsman to compete in times of illness or injury, by observing the provisions of the European Convention against Doping and the regulations of the International Olympic Committee. A regulation is also anticipated to regulate the procedure for checking for taking of illegal substances.

In the chapter on sports events are provisions forbidding serving alcoholic beverages in a sports facility during competition, one hour before the start and during the competition, entrance to persons under the influence of alcohol, smoking in closed spaces where a competition is being held and bringing pyrotechnic and other similar objects to a sports event. This law defines important international sports events and the basic conditions for candidacy and organising such events. This will be defined in more detail for Slovenia by the government of the Republic of Slovenia.

The law defines control over the fulfilment of the conditions for carrying out tasks of national importance in sports, proper use of public funds, managing and proper use of public sports facilities, observing standards and norms for carrying out the annual programme and the rules defined by law for organising sports competitions. The execution of contracts between the manager and the owner of public sports facilities is overseen by the Inspectorate of the Republic of Slovenia for Schooling and Sport, headed by the chief inspector on the basis of the annual programme of the Inspectorate. Monitoring, in accord with their jurisdiction, is performed by inspectors for sport. The provisions valid for school inspection are used also for inspection in sports, unless the proposed law states otherwise.

Acquisition and protection of personal data is regulated in general by the Law of Personal Data Protection (UL RS, no. 8/90, 19/91). In accord with the provisions of the above-mentioned law it is necessary to regulate the acquisition, archiving and use of personal data in sport as well, by forming records used by persons defined in the proposed law.

The law defines when a self-employed sportsman, self-employed professional, employer, organisation or individual, organiser can be punished for the offence of demanding of a sportsman to compete while ill or injured.

Sports facilities that are publicly owned and managed by organisations that are at the time of implementation of the Law in Sports involved in sports become the property of the organisation if the commune council and organisation managing board agree. All facilities that do not receive such agreement and those which were in public ownership become property of the commune.

All employees in sport lacking adequate education can continue to perform their educational work in sports education if the achieve the proscribed education in eight years. All employees whose educational level is only one below the required and have been working in sport education for more than twenty years at the time of the implementation of this law, can continue to do so without the proscribed educational level.

A professional who does not have a professional exam at the time of the implementation of this law can continue to perform professional work in sport, provided he passes the test in two years. Professional tests in other fields of education are recognised also for sports. Registers must be formed at least after 18 months after the implementation of this law. Subservient regulations are to be accepted inside a year of the time of the implementation of this law.

The Sports Council of the Republic of Slovenia must be founded in three months after the implementation of this law. Subservient legislation for the execution of this law is accepted by the Sports Council of the Republic of Slovenia at the latest after nine months after its constitution.

The resolution on the procedure for candidacy and organisation of important sports events in the Republic of Slovenia (UL RS 64/93) and the Law on Employment in the Field of Physical Culture loose their validity with the day of the implementation of this proposed law.

SPAIN

REPORT ON THE INSTITUTIONAL STRUCTURE, FINANCING AND LEGAL REGULATION OF SPORT IN SPAIN

Consejo Superior de Deportes

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1.- THE STRUCTURE OF SPORT IN SPAIN

1.1.- SPORT IN PUBLIC AND PRIVATE SECTOR.

* The organization of sport in Spain is based on a system of mutual collaboration between public and private sectors. Both sectors share responsibilities in the encouragement, promotion and development of physical-sporting activities and practices.

The interests harmonizing and the social corresponsibility are the two principles that inform and configure the social dynamics of general sporting activity.

- The most characteristic institutions of public and private sector are:

Public Sector

- The Higher Sports Council.
- Sports Head Offices of the Autonomous Communities.
- Local Entities (Town Councils, Delegations, County Councils).

Private Sector

- The Spanish Olympic Committee.
- The Spanish Paralympic Committee.
- Professional Leagues.
- Spanish Sports Federations.
- Autonomous Sports Federations
- Sports Associations.

1.2.- CHARACTER AND NATURE OF PRIVATE SPORTS ENTITIES.

1.2.1.- The Higher Sports Council (C.S.D.- Consejo Superior de Deportes).

The Higher Sports Council exercises directly the intervention of the State Authorities in the field of sport in accordance with the constitutional mandate that establishes that public powers will encourage physical education and sport, and will facilitate the right use of leisure.

The Higher Sports Council is an autonomous body of an administrative nature, attached to the Ministry of Education and Culture.

The functions and competences assigned to the Higher Sports Council.

According to the Law 10/1990, on Sport, the intervention of the State Authorities in the sporting field is exercised through the competences assumed for such purpose by the Higher Sports Council. These competences have a correlation of functions:

FUNCTIONS	COMPETENCES
Relationship to the Sports Federations.	- Statutes authorization. - Regulations approval. - Agreements and conventions on programs and budgetary objectives, and High-level Sport. - Subsidies grant and control of the same. - Authorization of registration in the corresponding Federations of an international nature. - Authorize pluriannual expenditure of Sports Federations
Promotion.	- Subsidies to sporting entities and associations.
Training.	- Regulation of minimal teachings of the qualifications of specialized sporting specialists.
Arrangement.	- Assessment of official competitions of a professional and statal nature. - Authorize or refuse on Spanish territory official sporting competitions of an international nature, as well as the participation of Spanish teams in international competitions (with the consent of the Ministry of Foreign Affairs). - Recognize the existence of a type of sport. - Registration of the Joint-Stock Sports Company and record of Sports Associations.
Control anti-doping	- Prevention, control and supression of doping.
Collaboration	- Collaborate in environmental and nature protection matters with other public bodies and Federations related with the latter.
Relationship to the Autonomous Communities	- Co-ordination with the Autonomous Communities in respect of the general sporting activity. - Co-operation with the Autonomous Communities in the development of the competences that appear in their respective statutes on sporting matter. - Co-ordination with the Autonomous Communities in the programming of school and university sport. - Collaborate with the Autonomous Communities in construction and improvement plans of sports facilities. - Collaborate with the Autonomous Communities in the modernization of the sports facilities Register.
Relationship to Local Corporations	- Collaborate with the Local Corporations in plans of construction and improvement of sports facilities.
Investigation	- Impulse and promotion of the scientific investigation in sporting matter.

(Law 10/1990, of 17th October, on Sport)

1.2.2.-Sports Head Offices of the Autonomous Communities

The functions and competences for the encouragement and development of the sporting policy in the Spanish Autonomous Communities are established in the respective Statutes of Autonomy and the rest of the regulatory rules of the sporting activity in the geographical field of each community.

The sporting Legislation of each Community delimits the field of action in this matter and, at the same time, differences it with respect to the State Authorities and the rest of the communities.

From among the competences that the Autonomous Communities recognize in their statutes and regulation rules, they appear:

* The promotion, construction and management of sports facilities.

* The guidance and co-ordination of Sports Federations of territorial autonomous scope.

* Co-ordination, promotion and guidance of sporting associationism.

* Legislative power on sporting policy in the autonomous area.

* Programming of subsidies to sport.

* Physical education and school sporting activity.

* The training of sporting specialists and entertainers.

* The management of training Centres of the Bachelors in Sciences of the Physical Activity and the Sport.

1.2.3- Local Entities (Town Councils, Delegations, County Councils)

The Local Entities, fundamental and basically the Town Councils, are the main managers of public sporting services, due to two facts: the degree of proximity to the family residence and a greater knowledge and use of the local sports facilities.

The Town Councils are the Local Entities that favour and make possible more and better the development and promotion of the basic sporting activity in the local area through the municipal sporting schools, sports bodies and sports associations of a local nature.

Some of the competences of Local Entities in sporting matter are the following:

* Reserve, in the urbanism plans, the necessary soil for the construction of sports facilities.

* Build, in collaboration with other public Administrations, the local sports facilities and to manage them.

* Develop sporting promotion programs for all the ages.

* Help the sports clubs located in their territory.

In the case of the Town Councils, the competences tend to be channeled through the municipal sporting services, whether for direct management or indirect one. (Patronages, Foundations, Societies, Associations, etc.)

The most frequent services are:

- The Municipal Sports Schools.
- The sporting activity and the adults maintenance.
- The organization of local competitions.
- The offer of sports facilities to clubs and private individuals.

1.3- CHARACTER AND NATURE OF PRIVATE SPORTS ENTITIES

1.3.1.- The Spanish Olympic Committee

It is a non-profit Association, endowed with legal status and declared of public utility, whose object is the development of the Olympic movement and the dissemination of the Olympic ideals. It integrates Federations of Olympic categories and represents Spain before the International Olympic Committee (I.O.C.).

1.3.2.- The Spanish Paralympic Committee

It is constituted according to the principles and rules of the International Paralympic Committee, being a non-profit organization, with legal status, full capacity of acting, own patrimony and unlimited duration, being guided by its own statutes and rules approved by the International Paralympic Committee.

1.3.3.- Spanish Sports Federations

They are private entities, with own legal status, whose scope for intervention covers the entire national territory, composed of the Sports Federations at the autonomous level, Sports clubs, sportsmen or women, specialists, judges, referees and umpires, Professional Leagues and other entities interested in the promotion and development of a specific type of sport on a nationwide basis. At the moment, there are in Spain 58 Sports Federations (53 uni-sporting and 5 multi-sporting).

Spanish Sports Federations, in addition to their own activities of government, administration, management, organization and regulation of the sporting specialities that correspond to each one of their sporting categories, exercise under the co-ordination and guidance of the Higher Sports Council, the public functions of an administrative nature:

- Take action in co-ordination with the Federations at the autonomous level to generally promote their types of sports on a nationwide basis.

* Design, draw up and implement in collaboration, in such a case, with the Federations at the autonomous level, training plans for high-level sportsmen and women in their respective types of sport, as well as participate in the elaboration of the annual lists of the same.

* Collaborate with the State Authorities and the Autonomous Communities in the training of sporting specialists and in the prevention, control and supression of the use of prohibited substances and pharmacological groups and non- regulatory methods in sport.

* Organize or advise on official competitions of an international nature that are held on national territory.

* Exercise sporting disciplinary authority, under the terms established in the Sport Law, their specific provisions of development and their statutes and rules.

* Exercise control over the subsidies that they allocate to the Sports Associations and Entities in the conditions that are fixed by the Higher Sports Council.

* Implement in case, the decisions of the Spanish Committee of Sports Discipline.

* Fulfil, with respect to their associates, the functions of guidance, control and supervision that the sporting legal order recognizes them

1.3.4.- Autonomous or territorial Sports Federations.

They are entities of similar characteristics and purpose to the previous ones whose intervention is the own autonomous territorial scope representing the Spanish Sports Federations in their respective Autonomous Communities.

1.3.5.- Professional Leagues.

They are private bodies with own legal status and autonomy for their internal organization and operation with respect to the corresponding Spanish Sports Federation, and of which they form part. They are composed of the clubs that participate in official competitions of a professional nature and national level. At present there are two Professional Leagues: the Professional Football League (P.F.L.) and the Basketball Clubs Association (B.C.A.)

1.3.6.- Sports Associations.

They are private Associations composed of individuals or bodies corporate, whose purpose is to promote one or several kinds of sport, the playing of these by their members as well as participation of the same in sporting activities and competitions.

Sports Associations, according to what was established in the Law 10/1990, of 15th October, on Sport, are classified as elemental sports clubs, primary sports clubs, professional sport clubs and Joint-Stocks Sports Companies.

2.- THE FINANCING OF SPORT IN SPAIN

The financing of Sport in Spain is in terms of the sports division in sectors, public and private, already above-mentioned.

2.1.- PUBLIC SECTOR

2.1.1- The Higher Sports Council (CSD-Consejo Superior de Deportes)

It is an autonomous Body of an administrative nature, attached to the Ministry of Education and Science and whose Chairman has the status of Secretary of State.

This body exercises directly the intervention of State Authorities in the area of Sport and in accordance with the constitutional mandate that establishes that public powers will encourage the Physical Education and Sport and will facilitate the right use of leisure (Article 43.3 of the Spanish Constitution).

The annual budget of the Higher Sports Council is included in the NATIONAL STATE BUDGET. The annual budget of the Higher Sports Council is distributed in four economic programs:

Co-operation, promotion and cultural dissemination abroad.
Sports teachings.
School and University sport.
Promotion and support to the sporting activities.

2.1.2. Sports Head Offices of the Autonomous Communities.

The competences for the development and promotion of the sporting policy in the geographical area of each Autonomous Community, are established in their respective Statutes of Autonomy. Sports legislation of each Autonomous Community delimits the field of action in this matter and, at the same time, differences it with respect to the State Authorities and the other Autonomous Communities.

All the activities that are derived from the former competences in the geographical areas of each Community, are financed charged to their respective budgets approved by the Legislative Chamber of each Community.

2.1.3.- Local Entities (Town Councils, Delegations and County Councils)

In Spain there are 8.075 municipalities at present. Charged to the budgets of each Municipality or Town Council, this one, basically, finances the investment intended for new sports facilities and the sporting activities promotion of a local and interlocal nature.

2.2.- PRIVATE SECTOR

2.2.1- Spanish Olympic Committee.

It integrates into its bosom the Olympic Sports Federations and represents Spain before the International Olympic Committee.

The Spanish Olympic Committee finances its programs of action through three sources of income:

- **Subsidy of the Higher Sports Council** intended for the fulfillment of training courses, specialization and development of trainers, Judges and Specialists.

- **Own income** (financial ones, sponsorship and program TOP-3 of the International Olympic Committee).

- **Income of the Program ADO** (Asociación de Deportes Olímpicos - Association of Olympic Sports). Three Bodies are integrated in this Program: Spanish Olympic Committee, the Higher Sports Council and Spanish Radio-Television (RTVE-Radio-Televisión Española).

The Association of Olympic Sports operates as an private entity of management that runs and manage economic contributions coming from sponsors (generally private enterprises and private enterprises with contributions of public capital and, at the same time, it controls the development of the different sports plans that Olympic Federations present each year, and within the Olympic cycles, before the Higher Sports Council.

This program ADO attends to some 400 elite sportsmen and women with an annual budgetary provisions of 1.300 million pesetas and during the Olympic Cycle.

2.2.2.- Spanish Sports Federations.

In Spain there are 58 sports Federations (53 uni-sporting and 5 multi-sporting).

The ways of financing of Spanish Sports Federations.

The total annual budget of Sports Federations includes the **ordinary subsidies** of the Higher Sports Council to each Federation, the income that Olympic Federations receive from the Program ADO and the income for own resources.

The Higher Sports Council, in addition to the state subsidies of an ordinary nature that the Federations annually receive , has established other ways of financing through **subsidies and aids of a precise and extraordinary nature**, according to needs derived from the fulfilment of extraordinary activities (international championships, World Cup, etc.), **signing of international conventions and travelling bags:**

2.2.3.- Territorial Autonomous Federations.

Each Sports Spanish Federation has its corresponding Federations in the territorial scope of each Autonomous Comunity.

The financing of these Territorial Federations is made, basically, through three ways:

- Subsidies that receive from the corresponding Spanish Sports Federation and are established or come through agreements or specific conventions.

- Financial resources coming from own income.

- Aids that they could receive from the Sports Head Offices of the respective Autonomous Communities.

2.2.4.- Sports Professional Leagues.

In Spain there are fundamentally two Professional Leagues (Professional Football League and Professional Basketball League).

In Spain, in addition to the two Professional Leagues of Football and Basketball, there are other two kinds of sports (Handball and Volleyball) that are nowadays in process of study in order to constitute their respective Professional Leagues.

Financing of Sports Professional Leagues.

Professional Football League.

The basis of financing of the Professional Football League is determined by three sources of economic income:

1st.) Income coming from television networks, public and private, as a result of contracts or agreements established between the League and the TV Network; and according to the number of matches televised of the Championship of the Premier League and Second Division of Football and Championship of the Cup of His Majesty the King, in each football season.

2nd.) Annually and until the year 2004, in which is extinguished the Improvement Plan of the Professional Football, there is a source of financing coming from the 7,5 per cent of the complete collection of the Sports Pari-mutuel, quantity planned at first for the coverage of the Improvement Plan.

> The collected quantity at present, annually, is distributed between the Improvement Plan and, the Adjustment and Reform Plan of football stadiums, according to what was established in the Real Decree 769 /1993, of 21st May, for which is approved the Regulation for the Prevention of Violence in sports spectacles.

3rd.) Income coming from the 1% of the Sports Pari-mutuel (football pools) that the National Body of Lotteries and State Bets deposits directly in the Professional Football League for their distribution to the Football Clubs that participate in official competitions of a professional nature.

4th.) Other income by way of fees, advertising, material and publications, etc., (though these income are a little more reduced, if the volume is compared with the income of the first source).

The Professional Football Assembly, in which are represented the Clubs of the Premier and Second Division, fixes the criteria of distribution of acquired income. In a general way we are immediately informing on the criteria of distribution , although these criteria can be modified according to the agreements adopted by the Assembly for each season.

Basketball Clubs Association (ACB-Asociación de Clubes de Baloncesto).

The basis of financing of the Basketball Clubs Association (Professional League of Basketball Clubs) is in function of these three sources of income:

1st) Income coming from the matches televised through public and private networks, in terms of the contracts or agreements between the Basketball Clubs Association and TV networks in question.

The Assembly of the A.C.B., in which 20 Basketball Clubs of First Division are represented, in terms of the income obtained thanks to televised matches, distributes these income, into equal parts, to these Clubs.

2nd) Income by Sponsorship, Fees, Advertising, etc. (Advertising fences, presentation of the ACB League, the Cup of His Majesty the King,etc.).

3rd) Income coming from the marketing of products (vests, track suits, sports equipment, etc.). These income are still very reduced and are in process of commercial introduction.

2.2.5.- Fiscal incentives to the financing of Sports Associations.

Basically there are two ways, through which Sports Associations can obtain a fiscal incentive.

a) Reduction or revocation of taxes that imposes the benefits that these Entities could obtain.

b) Fiscal Incentive to private companies that provide money or goods to SportsAssociations.

2.2.6.- Sporting patronage

The Law 30/1994, of 24th November, **on Foundations and Fiscal Incentives to the Private Participation, in Activities of General Interest** (modified by the Law 42/1994, of 30th December, on Administrative Fiscal Measures and of Social Order. Additional Disposition 23rd, recognizes the greatest fiscal benefits to the Spanish Sports Federations, the Territorial Sports Federations at autonomous level integrated in those and the Spanish Olympic Committee).

The other sports associations (sports Clubs, Associations, Organizations, etc.), do not have this treatment and therefore remain excluded of the fiscal benefits recognized in the Law 30/ 1994 / Article 43.

2.2.7.- Sports entities recognized or declared of public utility

In the Spanish legal mandate, the statement or recognition of the expression " Public Utility" in favour of a sports entity has a double tendency:

a) Sports entities recognized or declared of public utility by an explicit recognition of the Law.

b) Sports associations which can be declared or recognized of public utility provided that these have some specific conditions established by the Law.

In the first case (a), the Spanish Sports Federations and the Territorial ones at autonomous level integrated in those, are Entities of public utility for themselves. (Article 44, 2nd of the Law 10/1990, on Sport).

In the second case (b), the Sports Clubs that participate in official competitions on a nationwide basis, will be able to be recognized of public utility for agreements of the Council of Ministers, with a previous report of the corresponding Autonomous Community, in the conditions that are determined by the regulations. (Article 44, 2 of the Law 10/1990, on Sport).

The statement or recognition of "public utility" involves a series of benefits for those Sports Associations that have such characteristics.

A) **In the general way** these Entities enjoy benefits that the general legal mandate grants them (Law 30/ 1994, of 24th November, on Foundations and Fiscal Incentives to the Private Share in General Interest Activities. Additional Dispositon 13rd, 2).

1) Use the mention "declared of public utility" in all kind of documents, after the name of the entity.

2) Enjoy the exemptions and fiscal benefits that laws recognize in favour of the same.

B) With a **specific nature**, Sports Associations will enjoy, in addition to the above-mentioned benefits, the following ones (Law 10/1990, on Sport, Article 44-45):

3) Priority in the obtention of resources in plans and programs of sporting promotion of the State Authorities and Local Administrations, as well as of the public Entities or Institutions, dependent on the same ones.

4) Preferential access to the official credit of the State.

3.-LEGAL REGULATION OF SPORT IN SPAIN

3.1.- LEGAL ASPECTS: THE DISTRIBUTION OF COMPETENCES IN THE SPORTING FIELD.

The Spanish Constitution of 1978, establishes a new structure of the territorial organization of the State that until then had been established in a conception eminently centralist. The recognition to the autonomy of the nationalities and regions that integrate the Spanish Nation and the territorial organization of the State in Municipalities, Provinces and Autonomous Communities affects necessarily to the jurisdictional and organizational area of the structure of sport in Spain.

The Spanish Constitution, in its article 43.3 establishes a mandate to public powers of encouraging Sport: **"Public powers will encourage the sanitary education, the physical education and sport. Also they will facilitate the right use of leisure"**; this mandate, then, affects to **all** public powers, in their respective areas of competences: state, autonomous and local.

3.2.- LEGISLATION DERIVED FROM THE STATE COMPETENCE.

The Law 10/1990, of 15th October, on Sport, is the first proof of the obligation of the Nation Government of establishing the legal framework in which sporting practice must develope on a nationwide basis.

In broad outline and without prejudice of the detailed relation of the provisions that have been developed by the Law in force on Sport, the main matters on those which the Law spreads its dominant power are, among other ones:

- The role of the Higher Sports Council as an instrument of the state sporting policy and coordinating body with Sports Autonomous Administrations.

- The sports Associationism.

- The High-level Sport.

- The control anti-doping.

- The prevention of violence in sporting spectacles.

- The sporting Disciplinary regime.

3.2.2.- Regulation development.

The main provisions that have been developed by the Law in force 10/1990, on Sport and other legal provisions, in sporting matter, are the following:

Sports Bets of the State

- Real Decree 419/1991, of 27th March, regulator of the distribution of the collection and prizes of Sports Bets of the State and other games managed by the ONLAE (Organización Nacional de Loterías y Apuestas del Estado- National Organization of Lotteries and Bets of the State).

Aids and Subsidies of the Higher Sports Council

- Order of 28th October 1991, by which the bases for the grant of aids and subsidies are established, charged to budgetary credits of the Higher Sports Council.

- Resolution of 16th February 1994 on finalist subsidies to attend with an obligatory nature, travels of sportsmen and women to the Canary Islands, Balearic and cities of Ceuta and Melilla participating in competitions of a national nature.

- Resolution of 9th December 1996 by which the summons for subsidies grant to Local Corporations for the construction or remodeling of facilities of public use and federative interest is regulated (annual periodicity).

General Assembly of Sport

- Real Decree 630/93, of 4th May , on the General Assembly of Sport.

Sports Associationism

- Law 10/1990, of 15th October, on Sport, (Title III, devoted to Sports Associations, Sports Clubs and Joint-Stock Sports Companies).

- Law 30/1994, of 24th November, on Foundations and Fiscal Incentives to the private share in general interest activities.

- Real Decree 1786/1996, of 19th July, on procedures relative to Public Utility Associations.

- Order of 26th of April of 1996, on justification of the fulfillment of obligations with the Social Security by clubs and Joint-Stock Sports Companies.

- Resolution of 26th February 1996, of the Head Office of Sports Infrastructures and Services of the Higher Sports Council, on co-ordination between the Central Mercantile Register and the Sports Associations Register.

International Biennial of Sport in the Fine Arts

- Resolution of 9th of February 1996, of the State Department-Higher Sports Council, by which the bases of the XII International Biennial of Sport in the Fine Arts are established.

High-performance Centres (CAR' s-Centros de Alto Rendimiento)

The high-performance Centres are multi-sporting and specialized entities in which high-level sportsmen and women and promises of future sportsmen of elite carry out their technical-sporting training.

The co-ordination of these Centres corresponds to the National Commission of High-Performance Centres created in 1995 in the Higher Sports Council. These Centres form the Chain of High-Performance National Centres.

National Centre of Investigation and Sciences of Sport

- Resolution of 11st December 1995, of the Higher Sports Council, by which the summons of grant of aids and subsidies to public entities and universities for projects of investigation, technological development and other actions in the field of Sciences of Sport, is made public for 1996.
- Resolution of 4th December 1995, of the Higher Sports Council, by which the summons of subsidies grant to non profit entities is made public, for the organisation of scientific acts, periodical publications and fulfilment of studies in high-priority interest areas in the field of Sciences of Sport, for 1996.
- Resolution of 26th December 1995, of the Higher Sports Council, by which scholarships of postgraduation training are called in the National Centre of Investigation and Sciences of Sport.
- Resolution of 27th January 1997, of the Higher Sports Council , on summons of admission and practical training regime of postgraduation in the Center National of Investigation and Sciences of Sport for 1997.

Executive Commission of the Higher Sports Council

- Real Decree 1242/92, of 16th October, by which the composition and operation of the Executive Commission of the Higher Sports Council is regulated.

Spanish Committee of University Sport

- Order of 20th December 1988, by which the Spanish Committee of University Sport (CEDU-Comité Español de Deporte Universitario) is created, its structure is determined and its functions are defined.

Spanish Committee of Sports Discipline

- Law 10/1990, of 15th October, on Sport, (Title XI, Sports Discipline).
- Real Decree 1591/1992, of 23rd December, on sports discipline.
- Order of 2nd April 1996, by which the internal regime of performance of the Spanish Committee of Sports Discipline is regulated.

Higher Sports Council

- Real Decree 2582/1996, of 13rd December, on organic structure and functions of the Higher Sports Council.

School Sport

- Resolution of 12nd December 1996, of the State Department- Chairmanship of the Higher Sports Council, by which the Championships of Spain of theYouth are called for the season 1996-97. (Annual periodicity).
- Resolution of 12nd December 1996, of the State Department- Chairmanship of the Higher Sports Council, by which the School Championship of Spain is called for 1997 (Annual periodicity).
- Resolution of 23rd January 1997, of the Higher Sports Council, by which the programme of sporting talents detection, improvement and follow- up is summoned for 1997.

University Sport

- Real Decree 2069/1985, of 9th October, on joint of competences in matter of university sporting activities.
- Resolution of 12th December 1996, of the State Department- Chairmanship of the Higher Sports Council, by which the University Championships of Spain, corresponding to the year 1997 are called.
- Resolution of 12th December 1996, of the State Department- Chairmanship of the Higher Sports Council, by which a program of subsidies to inter- university tournaments is called for 1997.

High- level sportsmen and women

- Resolution of 22nd December 1994, of the Higher Sports Council, by which the selection criteria of the high-level sportsmen and women are established, in order to the fulfillment of the Military Service and the Substitutive Social Service.
- Real Decree, approved by the Council fo Ministers on 19th September 1997, on high-level sportsmen and women.
- Real Decree 254/1996, of 16th February, by which the Real Decree1856/1995, of 17th November, on high-level sportsmen and women is modified.
- Resolution of 30th April 1997, of the Higher Sports Council, on the annual list of high-level sportsmen and women.

Professional Sportsmen and women

- Real Decree 1006/1985, of 26th June, by which the special occupational relationship of the professional sportsmen and women is regulated.

Sports Discipline

- Real Decree 1591/92, of 23rd December, on Sports Discipline.
- Ministerial Order of 2nd of April 1996, by which the internal regime of performance of the Spanish Committee of Sports Discipline is regulated.

Doping

- Real Decree 1313/1997, of 1st August, by which the composition and functions of the National Anti-doping Commission are established.

- Ratification Instrument of the Commision against Doping, made in Strasbourg on 16.xi.89 (Official State Gazette of 11st June 1992).

- Resolution of 11st February 1997, of the Higher Sports Council on the list of prohibited substances and pharmacological groups and non-regulatory methods of doping in sport.

- Order of 11st January 1996, by which the general rules for the fulfillment of controls anti-doping and the general conditions for homologation and operation of laboratories, not state, of control of doping in sport are established.

- Resolution of 25th January 1996, on the list of prohibited substances and pharmacological groups and of non-regulatory methods of doping in sport.

- Real Decree 225/1996, of 16th February, by which the regime of infringements and sanctions for the Supression of Doping is established.

Physical Education

- Real Decree 1423/ of 27th November, on incorporation to the University of Teachings of Physical Education.

- Real Decree 1670/1993, of 24th September, by which the official university qualification of Bachelor in Sciences of Physical Activity and Sport and the own general guide lines of the studies plans leading to the obtention of the same ones are established.

- Order of 11st October 1994, by which the qualifications and the first cycle studies and the training complements for the access to the teachings leading to the obtention of the Official Qualification of Bachelor in Sciences of Physical Activity and Sport are determined.

Spanish Sports Federations

- Real Decree 1835/1991, of 20th December, on Federations Sports Spanish.

- Ministerial Order of 28th April 1992, by which the criteria for the fulfillment of electoral processes of the bodies of government and representation in the Spanish Sports Federations are established.

- Real Decree 1325/1995, of 28th July, by which the Real Decree 1835/1991, of 20th December, on Spanish Sports Federations is modified.

- Real Decree 253/1996, of 16th February, by which the Real Decree 1835/1991, of 20th December, on Spanish Sports Federations is modified.

- Order of 11st April 1996, by which the criteria for the preparation of regulations and fulfillment of electoral processes are established in Spanish Sports Federations and Clubs Associations.

Foundations

- Law 30/1994, of 24th November, on Foundations and Fiscal Incentives for the private share in activities of general interest.

Armed forces and Sport

- Organic Law 13/1991, of 20th December, on Military Service.

- Real Decree 1107/1993, of 9th July, by which the Regulation of Recruitment is approved.

- Order 98/1993, of 11st October, by which the Higher Council of Physical Education and Sports of the Armed Forces is reorganized.

- Real Decree 1410/1994, of 25th June, by which the Regulation of the Military Service is approved.

- Instruction Number 88/1994, of 15th September, of the Chairman of the Higher Council of Physical Education and Sports of the Armed Forces, by which the management procedure of the sporting activities developed in its scope is regulated.

Board of Electoral Guarantees

- Resolution of 14th March 1996, of the Higher Sports Council, by which the publication of members designation of the Board of Electoral Guarantees is prepared.

Law of Sport

- Law 10/1990, of 15th October, on Sport.

Program ADO (Asociación de Deportes Olímpicos-Olympic Sports Association)

Association composed of the Spanish Olympic Committee, Higher Sports Council, and Spanish Radio-Television. It is a non-profit association and its purpose is to obtain financial resources for the support to the Olympic training of Spanish sportsmen and women in Olympic cycles.

It was born in 1988 for the support to Spanish sport in the Olympics Games of Barcelona '92 and subsequent (Atlanta '96 and Sidney '2000).

General Plan of Accounting adapted to the Spanish Sports Federations

- Order of 2nd February of 1994, by which the rules of adjustment of the General Plan of Accounting to the Sports Federations are approved.

- Order of 10th March 1994, by which the application of the adjustment rules of the General Plan of Accounting approved by the Ministry of Economy and Finance to the Spanish Sports Federations is prepared.

National Prizes of Sport.

- Resolution of 3rd March 1997, of the Higher Sports Council, by which the National Prizes of Sport, corresponding to 1996, are summoned.

- Resolution of 29th April 1997 of the Higher Sports Council by which the National Prizes of Sport, corresponding to 1996 are granted.

Real Order of the Sports Merit

- Real Decree 1523/1982, of 18th June, by which the Real Order of the Sports Merit is created.
- Order of 24th September 1982, by which the regulations that establish bylaws of the Real Order of the Sports Merit are approved.

Sports Obligatory Insurance

- Real Decree 849/93, of 4th June, by which the minimal prestations of the Sports Obligatory Insurance are determined.

Sportsmen social security

- Real Decree 2621/1986, of 24th December, by which special regimes of the Social Security are integrated for railway workers, football players, commercial representatives, bullfighters and artists, in the General Regime, as well as the integration of the regime of writers is made within the Special Regime of Workers by own or autonomous ones.

- Real Decree 1820/1991, of 27th December, by which professional cyclists are included in the General Regime of the Social Security.

- Real Decree 766/1993, of 21st May, by which professional basketball players are included in the General Regime of the Social Security.

- Real Decree 2064/1995, of 22nd December, by which the general regulations on quotation and liquidation of other rights to the Social Security are approved (Reference to Football players, cyclists, basketball players and other professional sportsmen).

Military Service

- Resolution of 22nd December 1994, of the Higher Sports Council, by which the selection criteria of high-level sportsmen are established, in order to the fulfillment of the Military Service and the Substitutive Social Service.

Joint-Stock Sports Companies

- Real Decree 1084/1991, of 5th July, on Joint-Stock Sports Companies.

- Real Decree 449/1995, of 24th March, by which the Real Decree 1084/1991, of 5th July, on Joint-Stock Sports Companies is modified and completed.

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- Real Decree 1846/1996, of 26th July, by which the Real Decree 1084/1991, of 5th July, on Joint-Stock Sports Companies is modified.

- Resolution of 26th February 1996 of the Head Office of Infrastructures and Services, on the co-ordination between the Central Mercantile Register and the Sports Associations Register.

- Order of 26th April 1996 on justification of the fulfillment of obligations with the Social Security on the part of clubs and Joint-Stock Sports Companies.

- Order of 30th April 1996 on the fulfillment of tax obligations on the part of clubs and Joint-Stock Sports Companies for the purpose of their participation in official sporting competitions of a professional nature on a nationwide basis.

Sports Specialists

- Real Decree 594/1994, of 8th April, on teachings and qualifications of Sports Specialists.-(in 1997 the publication of a new Real Decree on qualifications of Sports Specialists is foreseen).

Academic Qualifications

- Real Decree 2048/1995, of 22nd December, by which the qualification of professional training of Higher Specialist in Animation of Physical and Sporting Activities and the corresponding minimal teachings are established.

-Real Decree 2049/1995, of 22nd December, by which the qualification of Specialist of Conduct of Physical-Sporting Activities in the Open Air and the corresponding minimal teachings are established.

- Real Decree 2058/1995, of 22nd December, by which the qualification of Higher Specialist of Sociocultural Animation and the corresponding minimal teachings are established.

- Real Decree 1262/1997, of 24th July, by which the curriculum of the educational course of a higher degree corresponding to the qualification of Higher Specialist in Animation of Physical and Sporting activities is established.

Violence in the sports spectacles

- Ratification instrument of the European Agreement on violence and irruptions of spectators on the occasion of sporting meetings and, especially, of football matches, made in Strasbourg on 19th August 1985.
- Real Decree 75/1992, of 31st January, on the National Commission against Violence in sporting spectacles.
- Real Decree 769/93, of 21st May, by which the Regulations for Prevention of Violence in sporting spectacles are approved.
- Order of 31st July 1997 by which the functioning of the Main Register of sanctions imposed for infractions against public security in the matter of sports spectacles is regulated.

Volunteers associations

- Law 6/1996, of 15th January, on Volunteers associations (it integrates the citizens participation in general interest activities, such as educational, scientific, sporting ones, etc.)

- State Plan of Volunteers Associations 1997-2000, approved by the Council of Ministers on 24th June 1997 (there is a whole of actions in this Plan, among which we can see the corresponding to the Sports Volunteers associations).

3.3- COMPETENCES OF THE AUTONOMOUS COMMUNITIES

The sporting competences of the Autonomous Communities, by virtue of the article 148.1,19th of the Constitution -, are recognized in their respective Autonomy Statutes, in which all the competences in sporting matter are collected, without exception, with a nature of exclusivity in the respective territorial scope.

As a result of this recognition, and so far, twelve of the Autonomus Communities, above a total of seventeen existing in Spain, have promulgated their respective laws of Sport. These Communities are : Aragon, Asturias, Baleares, Castilla-La Mancha,Castilla-León, Cataluña, Extremadura, La Rioja, Madrid, Murcia, País Vasco and Valencia. The rest of the five Autonomous Communities that do not have Law of Sport yet are: - Andalucía, Canarias, Cantabria, Galicia and Navarra -, all of them have some kind of specific regulation of a lower rank (Decrees, Orders, Resolutions); in this case it results from the supplementary application of the state Law of Sport, insofar as the normative estimations of these Autonomous Communities do not reach some extreme of the sporting regulation foreseen in the state legislation.

3.4.- COMPETENCES OF THE LOCAL ENTITIES

There is not in legal or regulation terms an only text that fixes with clarity which the sporting competences of the Local Entities are, neither which the suitable or mandatory form is for their use: Regulating Law of Bases of Local Regime, General Law of Health, Law of General Development of the Educative System.

In this sense, the State fixed the Bases of the Local Regime, - in use of the competence established in the article 149.1, 18th of the Constitution -, through the Law 7/1985. of 2nd April, Regulator of Bases of the Local Regime, in order to delimit, amongst other extremes, generic competences in sporting matter.

In this Law was included the sporting aspect between the called services of an obligatory nature that have to be lent by the Municipalities, and therefore exigible in their help to the neighbours, in populations superior to 20.000 inhabitants, that have to count on sporting facilities of public use.

The instruments with which Local Entities exercise their sporting competences are the usually called Municipal Boards of Sports. These Boards can be shaped as a public foundation of service or as an Autonomous Body of a local nature.The most frequent services in the sporting area are fulfilled through Municipal Sports Schools, animation courses and sporting recreation directed to all the sectors of local population, organization of local and interlocal competitions and offer of public sports facilities to the private sports entities and use of the private individuals in general.

The Municipal Regulations are those which, in fact, define the organization of the Municipal Sports Service in each Town Council.

The County Councils, as for them, fulfil' functions of prestation of economic and technical assistance to the Town Councils of their territorial area, that due to their characteristics, it is advisable for them to have a supramunicipal scope. Among these functions, the most important are:

- Provincial sports facilities.

- Facilities of coverage of Municipal Minimal Services.

- Technical assistance (courses, sessions, etc.).

- The promotion of activities (campaigns directed to the spreading of the Physical Education and Sport, Programs that tend to the incorporation to sporting service of non-user groups, as the third age, sport for all people, etc.).

- Support of the Associationism and collaboration with the Federations.

In this respect, it is necessary to emphasize that a high percentage (10,98%) of the weekly integral collection obtained by the National Organization of Lotteries and Bets of the State, coming from the Sporting-Charitable Bets, is destined for the County Councils, through the respective Autonomous Communities, or to these, if they were uniprovincial ones.

SWITZERLAND

SPORTS LEGISLATION AND BODIES IN SWITZERLAND

Report prepared jointly by
the Swiss Olympic Association, the International Centre for Sports Studies,
and the Macolin Federal Sports School

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1. SPORTS INSTITUTIONS

1.0 Introduction

The role of sport in society, the environment, health, education, science, the arts, politics, the economy and the media is more important than people tend to think. It should be noted, for example, that sport represents 4% of the gross national product.

However, to more fully appreciate the significance of sport in our society, it is necessary to have more detailed knowledge of its institutional structures. The aim of this report is to describe the relevant legislation in Switzerland.

Basically, the structure of Swiss sport can be broken down into two main areas: the public sector and the private sector. Responsibilities and powers are divided among various partner institutions:

- in the public sector:
    - the Swiss Confederation (i.e. the federal government);
    - the cantons and municipalities;
- in the private sector:
    - the Association Olympique Suisse (AOS) (Swiss Olympic Association) with its various component bodies, associate bodies and foundations;
    - sports federations affiliated to the AOS and their societies, clubs and sections;
    - other sports organisations (sports federations not affiliated to the AOS).

This report does not take informal sport into account, nor sport as an economic factor.

At international level, Switzerland works with the private and public sectors in the following organisations:

- the Council of Europe:
    - the Conference of European Ministers responsible for Sport (Conference of Ministers);
    - the Committee for the Development of Sport (CDDS), which is the steering body;
        - standing committees or working groups on specific topics;
- the European Conference on Sport
- the European Union (Switzerland has observer status).

Switzerland also has regular bilateral contact with many universities and colleges.

1.1 Public sector

1.1.1 General responsibilities

The public sector other than the Confederation, cantons and municipalities:

- is responsible for sport in schools;
- is responsible for managing and funding the youth and sport movement Jeunesse+Sport;
- provides funding for some private-sector sports activities, particularly popular sport.

1.1.2 Specific responsibilities of the Confederation, the cantons and the municipalities

The Confederation

The Confederation encourages the practice of sport in the interests of young people's development, public health and physical fitness, as follows:

- Physical and sports education in schools

  The Confederation lays down framework regulations:

  - the cantons ensure that there is sufficient teaching of gymnastics and sports in schools;
  - physical education is compulsory in all schools;
  - the Confederation co-ordinates the training of teaching staff.

- *Jeunesse+Sport*

  The aim of *Jeunesse+Sport* is to provide further sports training for young people between the ages of 10 and 20, and to encourage them to adopt a healthy lifestyle. The cantons organise *Jeunesse+Sport* activities, under the supervision of the Confederation and in association with the relevant federations and organisations.

- Community gymnastics and sports federations; other sports organisations and sports events.

  The Confederation supports federations whose activities fall within the scope of this law, as well as international or pan-European sport events.

- Scientific work

  The Confederation encourages scientific research in gymnastics and sport; co-ordinates scientific work; and supports scientific research programmes.

- Sports facilities

  Subject to availability of appropriations the Confederation may subsidise the construction of national sports facilities used for sports training.

- The Ecole fédérale de sport, Macolin (EFSM) (Macolin Federal School Sports)

The EFSM is:

- the national institution responsible for sport;
- an important federal sports education centre;
- a national reference centre for sports science;
- an important documentation centre for Swiss sport.

In the federal constitution, the EFSM is given the status of an "office fédéral" (federal office); it is currently attached to the Department for Home Affairs. As from 1/1/1998 it will come under the Federal Military Department, as it did until 1983 (new title: Federal Department for Defence, Protection of the Population and Sport.

- The Federal Sports Committee (Commission fédéral de sport)

The Federal Sports Committee is an extra-parliamentary committee, and acts in an advisory capacity; it is the Confederation's technical body for sport.

Responsibilities of the cantons

Under their mandate from the Confederation, the cantons are responsible for physical education in schools. In other words:

- compulsory physical education (three hours a week at all levels of schooling);
- sport in vocational schools;
- optional school sports;
- basic and further training for teachers.

The cantons make a significant contribution to the organisation and funding of *Jeunesse+Sport*. The cantons' administrative work is implemented by:

- a sports department;
- or a *Jeunesse+Sport* office which is independent from the inspectorate for physical education in schools.

Responsibilities of the municipalities

The municipalities, supported by the cantons, are the main providers and users physical education facilities in schools. Outside school hours these facilities are made available to sports clubs.

Large municipalities usually have a municipal sports department.

1.2 Private-sector bodies

1.2.1 General responsibilities

Most voluntary sports activities are run by the private sector. The private sector is mainly responsible for Sport for All and amateur elite sport.

1.2.2 Partner organisations

1.2.2.1 The Swiss Olympic Association (AOS).

The AOS, set up on 1 January 1997, is an association as defined in Article 60 ff. of the Swiss Civil Code. It is the result of merging the Association Suisse du Sport (ASS) (Swiss Sports Association) and the Comité Olympique Suisse (COS) (Swiss Olympic Committee) and at the same time adding the Comité national pour le sport d'élite (CNSE) (National Committee for Elite Sport) to them. The AOS acts both as the national Olympic committee and the umbrella association for private-sector sport in Switzerland.

Objectives and duties

The AOS carries out its work on behalf of member federations and their affiliated clubs; popular sport; and the Olympic movement. The AOS is responsible for:

- promoting sport in society as a means of improving health and the quality of life;
- encouraging people to practise sport regularly;
- encouraging high-level sport aimed at international competition;
- representing the interests of Swiss private-sector sport to public opinion, the authorities, and national and international organisations;
- supporting and co-ordinating the activities of member federations, and carrying out higher-level tasks;
- supporting and encouraging the Olympic movement and its aims; the AOS is a member of Olympic and international organisations.

Members

The AOS is made up of national sports federations; members of the International Committee in Switzerland; and honorary members.

Most **national federations** are affiliated to the AOS; the 81 sports federations have some 3.45 million members in total, spread over 27 000 clubs (the figure includes multiple memberships). Since the Swiss population is approximately 6.5 million, this means that between one in two and one in three people practise some type of sport within an association.

National sports federations may be admitted as members if:

- they are associations as defined in Article 60 ff. of the Swiss Civil Code;

- they cover the whole country;
- they have existed for at least five years;
- their statutes explicitly state that their aim is the practice of sport;
- they take on responsibilities in sport.

National sports federations must be accepted as members if they are affiliated to an international federation whose sport is included in the programme for the next Olympic Games, and if they fulfil the above conditions.

Members of the International Olympic Committee (IOC) in Switzerland are members of the AOS for as long as they remain part of the IOC.

Individuals who have performed outstanding services for the umbrella association, for the Swiss sports movement or for sport in general may be awarded **honorary membership**.

Organisation and work of AOS bodies

The **Parlement du sport** (Sports Parliament), which acts as the General Assembly, is the highest body of the AOS.

The **Conseil exécutif** (Executive Council) is the management body of the umbrella association. It prepares the decisions to be taken by the Sports Parliament, and ensures their implementation. It is the external representative of the umbrella association. The Executive Council is made up of: a President; Vice-President; Secretary General for matters relating to Olympic sports; treasurer and eight other members, who are elected for a period of four years (including two public-sector sport representatives and at least one representative of non-Olympic member federations); and members of the IOC in Switzerland.

The **Comité du sport d'élite** and the **Comité du sport populaire**" (Elite Sport Committee and Popular Sport Committee) each have a president and between four and ten members, all elected by the Executive Council. The **Elite Sport Committee** deals with all aspects of high-level international sport.

The **Popular Sport Committee** deals with all matters not directly related to high-level international sport.

Delegates perform combined duties in the following areas: sport and the environment; sports facilities; women and sport; and fair play.

The **General Secretariat** helps AOS bodies and the Elite Sport and Popular Sport Committees to operate, and also helps member federations carry out their work.

The **Commission technique de lutte contre le dopage** (Anti-doping Technical Committee) is autonomous, and works independently of the Executive Council and the General Secretariat. In addition to its president, it has between six and eight members, who are also elected by the Sports Parliament.

The **"instance de révision"** (review body) is elected on a yearly basis by the Sports Parliament.

1.2.2.2 The Foundation *Aide Sportive Suisse*"

The Foundation *Aide Sportive Suisse* (Swiss Sports Aid Foundation) was set up in 1970 by the ASS and the COS. It is a non-profit-making foundation, as defined in Article 80 ff.

Aim/Function

The foundation is a Swiss sports charity which supports elite amateur athletes and, subject to available funds, **federation action to train up tomorrow's elite.** Its aim is to help athletes take part in international competitions by providing financial support; it also supports them in technical, social and occupational matters.

Organisation and work of the foundation's bodies

The **Conseil de fondation** (Foundation Council) has about thirty members, from business, politics and sport. It decides how funds are to be used.

The **Commission d'attribution des ressources** (Committee for Funding Allocation) is responsible for appropriately allocating funds to sportsmen/women.

The **management** supervises the work of the different bodies, and administers the foundation.

An outside company performs the role of auditor.

1.2.2.3 The Society of Sport Toto (SST)

The Society of Sport Toto (SST) (Sports Pool Company) was set up in 1938 by the Intercantonal Lottery; the canton of Bern; the SEVA co-operative lottery company; the Federal Committee for Sport and Physical Education (now the Federal Sports Committee); the National Association for physical education (now known as the Swiss Olympic Association (AOS); the Swiss Football Association; and the Swiss Athletics Federation.

Aim/Work

The aim of the SST is to raise funds to support amateur sport, youth sport, and popular sport by organising results-prediction competitions.

Members

The SST has 27 members; 18 canton representatives and 9 honorary members.

Organisation

The highest body of the SST is the **General Assembly.**

The SST has a **committee**, made up of nine members, which manages and runs the company.

It also has a **management commission**, made up of the president, the vice-president, and one other member.

The **management** is responsible for implementing the decisions taken by the committee and the management commission, and for running the competitions.

Competitions

SST-organised betting on sporting events comes under the law (Act) on lotteries and professional gambling and the relevant cantonal regulations.

The conditions for taking part are laid down by the General Assembly. The Assembly must approve any changes to these conditions.

2. FUNDING FOR SPORT

2.1 Public-sector sport

The Confederation

In 1996 the Confederation spent a total amount of 88 508 557 Swiss francs on the following:

-	the Macolin Federal Sports School	25 836 572 SFR
-	*Jeunesse+Sport*	48 422 208 SFR
-	Federal subsidies	14 249 777 SFR

Cantons and municipalities

The following figures for expenditure of cantons (200 million SFR) and municipalities (700 million SFR) are based are estimates only:

-	Building and renovating sports facilities	350 million SFR
-	Sports facility operation and maintenance costs	200 million SFR
-	Salaries of sports/physical education teaching staff	280 million SFR
-	Administration	40 million SFR
-	Sports promotion	28 million SFR
-	Sports equipment	2 million SFR

2.2 Private-sector sport

The Swiss Olympic Association (AOS)

For 1997, the total income (21 356 000 SFR) is expected to be distributed as follows:

-	Competitive sport (including anti-doping measures)	11 884 000 SFR
-	General sports promotion	7 640 000 SFR
-	Cross-sectoral work	1 747 000 SFR
-	National sports facilities	1 500 000 SFR
-	Sports bodies (including the Sports Parliament)	3 185 000 SFR
-	Deficit guarantees	500 000 SFR

Swiss Sports Aid Foundation (ASS)

In 1996, the foundation spent a total of 3 685 363 SFR - from total income of 5 410 421 SFR - to support 269 sports people practising individual sports, and a further 65 practising team sports; one third of annual funding of sports promotion goes to bringing on the rising generation of sportsmen/women.

The Sports Pool Company (SST)

In 1996, the profits made by the SST, which totalled 59 468 360 SFR, were distributed as follows:

-	25% to the Swiss Olympic Association	14 867 075 SFR
-	75% to the cantons	44 601 225 SFR

3. SPORTS POLICY

Throughout the 19th century, and for the first half of the 20th century, training in sports and physical education came under national defence. The teaching of "gymnastics", and then "physical education", was handled by the military authorities, and thus by the Confederation. Gymnastics and sport were for a long time exclusively for boys and young men. For a long time, the modern development of sport met with resistance from gymnastics circles. It was only when the Swiss Olympic Committee (1912) and the National Association for Physical Education were set up that public-sector and private-sector sport could be effectively combined at federal level.

In the early 1970s, the enactment of legislation on sport in Switzerland was an additional milestone in the development of sport at national level. However, despite the legal provisions currently in force, considerable shortcomings still need to be overcome before a true sports policy can be put into effect.

The importance of sport in Switzerland today, its complex nature and its overlap with other areas demonstrate the need for a sports policy. Work is currently under way to draw up the foundations of such a policy.

4. LEGAL PROVISIONS

4.1 At Confederation level

4.1.1 **Before 1970**

Background and legislation[2]

The basic questions concerning the teaching of gymnastics were already being discussed in Switzerland in educational, medical, military and political circles between 1860 and 1870. The discussions yielded a solution, which was subsequently applied in the 1874 law on military organisation. School gymnastics and preparatory instruction became an integral part of military training. It followed that school gymnastics for boys became the only teaching subject governed by the Confederation.

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[2] Message from the Federal Council to the Federal Assembly in support of a draft article 27, para 5, of the Constitution, concerning encouragement of gymnastics and sport (10 September 1969)

Unsurprisingly, however, applying the regulations was fraught with difficulties. There was a widespread lack of teachers; sites; facilities; and equipment. These difficulties were taken into account when the legislation was revised in 1907, and the following amendments made:

Article 102

The cantons shall ensure that boys are taught gymnastics at school, by teachers who have received special training at teacher training colleges and through the gymnastics-teaching instruction provided up by the Confederation.

The Confederation shall supervise the implementation of these measures.

Article 103

The Confederation shall encourage all associations - and, in general, all efforts whose aim is to promote the physical development of young people after school hours, and their preparation for military service.

An examination of physical aptitudes shall be performed as part of the admission procedure.

The Confederation shall lay down regulations concerning the teaching of preparatory gymnastics. It shall arrange for instructors.

Article 126

At the same time the Confederation shall subsidise, according to their size, other institutions which aim to promote the development of military skills, providing that they accept its regulations and its supervision.

A new concept was born. Gymnastics for boys, now compulsory, was supplemented by voluntary preparatory instruction after the legal school-leaving age. The provisions remain unamended so far.[3]

4.1.2 After 1970

Federal Constitution

In promulgating Article 27 *quinquies*, the aim was clearly to put an end to organising gymnastics and sport solely as military preparation, and provide them for all men and women. Article 27 *quinquies* reads:

[1] The Confederation shall be entitled to issue regulations concerning the practice of gymnastics and sport by young people. It may enact a law to make the teaching of gymnastics and sports compulsory in schools. The cantons shall be responsible for applying the federal regulations in schools.

[2] The Confederation shall encourage the practice of gymnastics and sports by adults.

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[3] See Appendix I for regulations issued by the Federal Military Department.

[3] The Confederation shall maintain a school for gymnastics and sports.

[4] The cantons and relevant organisations shall be consulted during the drafting of implementing Acts.

Reform of the Federal Constitution

The Constitution is in the process of being completely revised. On 20 November 1996, the Federal Council submitted a message concerning the new constitution. Constitutional law currently in force is to be updated and completely revised in two areas (justice and political rights). As part of the reform, some changes have been made to the wording of Article 27 *quinquies*, but the content of the Article remains unchanged. The Federal Assembly is expected to publish its decision on the constitution in 1998, and it should be put to popular vote during 1998-99.

Law

In accordance with Article 27 *quinquies*, the federal law encouraging gymnastics and sports was promulgated on 17 March 1972.[4] An overview of the content of this law is given in section 1.1.2 of this report: "Specific responsibilities of the Confederation, the cantons and the municipalities.

Order

The Federal Council order of 21 October 1987[5] on encouragement of gymnastics and sports sets out the provisions implementing the federal law. Under Article 1, paragraph 1, the cantons are to ensure that three hours a week are given over to physical education in primary and lower and upper secondary schools. This measure has given rise to much debate in the cantons (see section 5.1: practical cases, public law, compulsory PE teaching)[6] .

4.2 At canton level

Cantonal laws on encouragement of gymnastics and sports

Switzerland is a federal state. As such, it can be defined as a state made up of member states. The 26 cantons are the member states, to which the federal constitution gives autonomous decision-making powers in specific matters.[7] In other words, the federal constitution apportions state powers between the Confederation and the cantons.

Under Article 27 *quinquies*, the Confederation has used its right to legislate on sport, laying down regulations on the practice of gymnastics and sports by young people, including compulsory physical education in schools. The constitution assigns responsibilities for adult sport to both the Confederation and the cantons, in accordance with paragraph 2. This enables the Confederation and the cantons to act simultaneously and independently.

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[4] See Appendix 2.

[5] See Appendix 3.

[6] See Appendix 4.

[7] Häfelin/Haller, Schweizerisches Bundesstaatsrecht, 3rd volume, new revised version, Zurich 1993, p. 56 ff.

Most cantons have laid down regulations implementing the federal legislation on encouragement of gymnastics and sports. But this goes beyond the scope of this report, which is to describe national legislation only.

4.3 Areas of law relating to sport

See Appendix 5.

5. SPORTS LAW: ILLUSTRATIVE CASES

5.1 Public law

School and sport:

- Compulsory three hours' PE teaching in schools;
- Exemption from swimming lessons.

Compulsory three hours' PE teaching in schools

Under Article 27 *quinquies* of the federal constitution, the Confederation has the right to lay down regulations on the practice of gymnastics and sport by young people. It may enact legislation to make the teaching of gymnastics and sport compulsory in schools. Responsibility for applying federal regulations in schools lies with the cantons (paragraph 1). The Confederation has made use of this right by instructing cantons to ensure that three hours a week are given over to the teaching of PE in primary and lower and upper secondary schools (Article 1, sub-paragraph (a) of the Federal Law encouraging gymnastics and sports, taken together with Article 1 of the Order on encouragement of gymnastics and sports). This interference with cantonal powers regarding state education has been the subject of much debate, particularly as regards financial policy, and for the first time, in September 1996, resulted in a judgment of a cantonal administrative court. In one of the cantons (Lucerne), a Public Board education changed the cantonal regulations and decided itself established - regardless of federal regulations - the number of compulsory PE lessons. Following this decision, the parents of pupils concerned appealed to the administrative court. The appeal was accepted. Where the Confederation has used its right to legislate on gymnastics and sport in accordance with the Constitution (in this case, making the teaching of three hours of PE a week compulsory), the canton is not entitled to make use of its right to issue orders. The decision was not referred to the Federal Court LVGE 1996 II No. 10).

Exemption from swimming lessons

X asked the schools committee of a particular municipality to exempt his daughter from swimming lessons. The request for exemption was on religious grounds; the father claimed that Islam forbade people of different sexes to swim together. At final appeal, the Federal Court found in X's favour, in a judgment delivered on 18 June 1993. Muslims, who adhere strictly to the rules of the Koran, which forbids young women from swimming with young men, can invoke their right to freedom of religion (guaranteed by Article 49 of the federal constitution, and Article 9 of the European Convention on Human Rights). The further question, however, was whether the civic duty to attend school, as laid down in Article 49, paragraph 5 of the federal constitution, did not take precedence over the religious convictions of the appellant and his family. The Federal Court held that the private interest of the appellant and his family in living according to their religious convictions took precedence over the public interest in observance of the general obligation to attend school (ATF 119 la 178).

Sport and environment:

Clearing land to develop a golf course

Authorisation to clear land for tourist and sports facilities may only be granted in exceptional cases, where the area to be cleared is relatively small, and the planned facility is of prime importance for the municipality or region. Laxity in the matter would be incompatible with the aims of forestry law. Also, in the weighing up of the interests involved (Article 5 of the Federal Law of 4.10.1991 on forests, RS 921.0), undue importance should not be attached to the difficulties faced by one sector of the economy in the current economic climate, or to the need to preserve jobs cannot be stressed enough (ATF 112 Ib 556).

Tax law:

- Exemption of sports associations and federations from tax
- Value added tax in sport

Exemption of sports associations and federations from tax

Sports associations are legal entities and as such are liable for tax. Consequently, they are taxed on profits and capital. As sports associations are generally non-profit-making organisations, they enjoy tax advantages at federal level, and in many cantons. The subscription fees are not treated as taxable income. The Confederation does not collect direct taxes when an association's profits are less than 5 000 SFR, and its capital less than 50 000 FR. Some cantons have higher limits than these, for example St Gallen, where they are 10 000 SFR and 60 000 SFR, respectively. Sometimes a sports association may have partial tax exemption in that it serves the public interest (an association with a junior section, for example).

Value added tax in sport

Value-added tax (VAT) also applies to sport, to the great displeasure of sports associations and federations (Order of 22 June 1994 on value-added tax, which came into force on 1 January 1995, RS 641.201). In order to try and change this situation, a popular initiative "against unfair VAT in sport and social matters (initiative on behalf of sport and services in the public interest") has been set in motion. The main aim of the initiative is to win VAT exemption for items such as registration fees for federations' internal sports events or competitions (licence fees), and to make "Sport for All" activities set up by sports clubs VAT-exempt, relieving sports federations and associations, which are often run by volunteers, of the complicated administrative paperwork associated with VAT. The initiative urges that "none of the operations carried out by non-profit-making sports federations or clubs or by recognised organisations in the public interest, and none of the operations carried out to meet the needs of these federations, clubs and organisations, [shall] be subject to tax in accordance with paragraph 1, sub-paragraph a)" (Article 41 ter, paragraph 3 ter).

5.2 Private law

Law of clubs and associations

- Right of members to challenge an association's decisions;
- Rules of the game - rules of law.

Personality rights:

- The right to practise one's occupation;
- The Swiss Bosman case.

Employment law:

- Dismissal without notice;
- Disciplinary measures.

Liability law:

- Obligation to ensure safety of ski slopes;
- Spectator injury;
- Injury of one sportsman by another during an event;
- Duties of a teacher during a mountain race.

Law of clubs and associations

Right of members to challenge an association's decisions

One of the main provisions on jurisdiction in sports matters in Switzerland is Article 75 of the Civil Code, which states that "any member of an association shall be entitled by law to bring proceedings to challenge any decision with which he disagrees, and which contravenes legal provisions or the association's statutes, providing this is done within one month from the day he was informed of the decision". The following decisions may be challenged: decisions by the general assembly (or of the assembly of delegates), as well as those of any other bodies of the association, providing that the decisions are final and that all means of redress internal to the association have been exhausted (ATF 118 II 12).

Rules of the game - Rules of law

National courts are having to deal with an increasing number of sport-related cases. In many of these, the boundary between rules of the game and rules of law is crucial. Rules of the game apply only to the game itself, and the way it is played. They do not have any legal basis and consequently decisions made under such rules do not come within the remit of ordinary courts. This applies, for example, to referees' decisions. Being unfairly sent off during a the football match is not a matter for the courts, whereas an ensuing suspension can be reviewed by a national court. (ATF 118 II 12: Conditions applying to entering a motorcycle race: "A distinction must be made in rules governing entering a sports competition between those which apply to the competition itself, such as rules on engine capacity and competitors' weight or age and those which apply to the entry procedure, which are purely administrative. Whereas the former are purely rules of sport, the latter allow entry to the competition subject to the formal requirements and deadlines laid down in a particular regulation; they are of a legal nature and, as such, can be reviewed by the courts").

Personality rights:

The distinction between rules of the game and rules of law is irrelevant in the event of a contravention of personality rights. The distinction is then no longer the only criterion for deciding whether a particular case may be reviewed by the ordinary courts.

The right to practise one's occupation

An ice-hockey coach was suspended by the Swiss Ice Hockey League for a year for venting his anger on a referee after a match. The federal court held that this suspension was a matter not of the rules of the game but the rules of law. As the suspension adversely affected the personal and economic circumstances of a professional coach, it went beyond merely penalising him to ensure the game was played fairly. It constituted a punishment which harmed his legal interests (specifically, his right to practise his occupation) and, as such, was reviewable by the Swiss courts (ATF 120 II 369).

The Swiss Bosman case

Switzerland had its own "Bosman case" in 1972. A football club, after legally terminating the contract binding it to one of its players, refused to give the player a certificate of release - an essential requirement, under the rules of the Swiss Football Association, for players wishing to change clubs, even when their contracts have expired. As this refusal prevented the player from finding another club, the player sued his old club for damages with interest and non-material damages. The federal court held that the association's regulations immorally restricted the player's personal freedom and that the powers they gave the clubs in this matter unacceptably contravened players' rights. It further ruled that the only acceptable purpose of a certificate of release was to prevent a player being qualified to play for two clubs at once. That did not justify a club's withholding of a certificate of release from players who had reached the end of their contract with it and who had discharged all their obligations. The court accordingly awarded the player damages with interest and non-material damages (ATF 102 II 211).

It should be added that in Switzerland, as from the end of the 1998-99 season, all transfer fees are to be abolished by the National Football League for players whose contracts have expired.
Employment law:

Dismissal without notice

Every year, coaches are dismissed by their clubs for failing to deliver results. Does this lack of results constitute a ground for early termination of a contract? Dismissal without notice is only justified if there are good grounds (Article 337, paragraph 1, Code of Obligations). The case-law is that there are good grounds when the following two requirements are met: first, that there no longer be an objective basis for insisting that the employment relationship continue, and second, that the relationship of mutual trust between employer and employee have effectively broken down, which leaves the courts considerable discretion (ATF 116 II 145 = JdT 1990 I 578). In principle, failure to achieve results cannot be considered a good ground as a sports coach cannot guarantee sporting success.

It may be wondered whether a series of defeats might not also, according to circumstance, cause an objective breakdown of mutual trust. If so, the lack of results would provide exceptional justification for immediate termination of the contract between the trainer and his club. The question of the financial consequences of termination of contract then remains to be dealt with. Although recourse can be had to employment law, in practice the parties usually reach a friendly out-of-court settlement.

Disciplinary measures

Under the established case-law of the federal court, fines provided for in contracts of employment are "peines conventionnelles" (sanctions provided for under an agreement), as defined in Article 160 ff. of the Code of Obligations. Such sanctions are only valid if the amount has been determined beforehand, or at the very least is capable of determination. Similarly, it is unacceptable for one of the contracting parties to fix the amount as he sees fit. In practice, in employment contracts based on private law (which include those covering the player/club and coach/club relationship), the employer does not have the power to inflict a disciplinary penalty on an employee unilaterally. This is the line of reasoning the federal court adopted in granting an appeal by a basketball player who had been fined by his club/employer for refusing to attend training sessions (ATF 119 II 162).

Law on civil liability:

(Author's note: this section on civil liability includes examples of civil liability and/or criminal responsibility, although criminal law comes under public law).

Obligation to ensure safety of ski slopes;

In abundant and established case-law on ski-lift companies' duty to ensure the safety of ski-slopes, the federal court has stated that skiers must be protected from dangers which are not clearly recognisable and which, for that reason, are veritable traps. Skiers must also be protected, insofar as can reasonably be expected, against the inevitable skiing dangers with which any skier has to contend. These result from the possibility of a fall in which the skier slides and is unable to change direction. To avoid such falls resulting in injury, appropriate measures must be taken to provide protection from obstacles such as pylons and isolated trees at the edge of the ski run (for example, by enclosing them in padding) (ATF 121 III 358).

Spectator injury during a sports event

The club organising the event (in principle the home club) and the spectator are bound by a contract of entry to a sporting event. For this reason, the club is usually liable in the event of injury to the spectator (for example if an ice-hockey puck hits a spectator in the eye, causing loss of the eye) unless it is able to prove absence of negligence. The organising club is therefore contractually bound to ensure the safety of spectators, whether they have paid or are present by invitation, as well as that of sportsmen and sportswomen to whom it is bound by a contract, whether full-time or part-time (RSJ - *Revue Suisse de Jurisprudence*, 78/1982, p. 60).

Injury of one player/competitor by another;

In a violent collision between two ice-hockey players, one suffered ruptured cruciate ligaments and the other a knee injury. The federal court held that, in cases of physical injury during a sports event, the player's duty to take care was determined by the relevant rules of the game - insofar as these contributed to players' safety - and the general principle of *neminem laedere*. Sportsmen and sportswomen might be regarded as having committed an intentional act if they contravened their duty of care in the knowledge that this could result in injury of their opponent. In addition, tacit acceptance of the risks inherent in the sport could not be pleaded when the player who had caused the injury had intentionally or crudely infringed a rule of the game intended to prevent physical harm to the players. Conclusion: a player/competitor who, during a sports event, harmed an opponent as a result of intentionally breaking the rules of the sport, might be open to a criminal charge of causing physical injury (ATF 121 IV 249).

A teacher's duties during a mountain walk

During a mountain hike organised by a teacher, one of the '13-year-old pupils fell and was killed. The group had consisted of about twenty teenagers, and been accompanied by the teacher and one other adult. The accident had happened as the group crossed a short snow-covered section: the victim, who was approximately seventh in line, had slipped, tumbled and fallen down a rock face. The teacher was tried for negligent homicide, under Article 117 of the Criminal Code. The federal court found the teacher guilty of lack of foresight (Article 18, paragraph 3 of the Criminal Code and referred the case back to the lower court. In March 1997, the lower court delivered a verdict of negligent homicide and sentenced the teacher to a suspended one-month prison sentence. The federal court's judgement, the main arguments of which we reproduce here, describes the duties of the leader of a mountain hike as follows: camp leaders or mountain-hike leaders must be especially vigilant when in charge of children, since children are generally not yet capable of recognising danger. The teacher had underestimated the risks of a mountain hike in spring, especially when his group was approaching steep, snow-covered slopes where the path was obscured. He was also accused of not having sufficiently taken into account the personal circumstances of the victim, who apparently had had no experience of mountain walking, had been somewhat overweight, and could not be expected to have the necessary physical or mental skills for dealing with sudden danger in the mountains.

Law on competition/law on cartels:

CWL-UEFA judgment

As in many European countries, television broadcasting rights have become one of the main sources of revenue in Switzerland for sport. However, contracts for exclusive the broadcasting of sports events pose certain problems, essentially with regard to the law on unfair competition and the law on cartels. The main question is whether a federation which sells TV rights in a centralised manner is to be considered a cartel. A specialist agency dealing in TV rights challenged in the Swiss courts UEFA's centralised selling of the TV rights to Champions' League matches. Clubs taking part in the Champions' League were required to transfer their TV and radio broadcasting rights to UEFA, which was then able to sell the rights on an exclusive basis. The agency argued that it already had long-term broadcasting rights contracts with clubs participating in the Champions' League". It asked the court to ban UEFA from selling the broadcasting rights, direct or through a third party, on a centralised basis, and thus preventing (member) federations or clubs from entering into contracts regarding broadcasting rights themselves or from honouring existing contracts. The court acceded to the request, and prohibited UEFA from selling TV broadcasting rights to Champions' League matches on an exclusive basis and from encouraging clubs to break existing contracts with other agencies. It agreed that the procedure used by UEFA constituted a cartel, and that it contravened the law both on unfair competition and cartels (judgment of Bern district court (Richteramt) III, 22.09. 1994, published in Spurt 1-2/1995, p 30 ff.).

5.3 Arbitration tribunal

When a friendly settlement cannot be reached in the event of a sports-related dispute between clubs, players/competitors, sponsors, workers or employers, the parties only have, in principle, three forms of redress. They can bring their dispute before:

- the federation's internal bodies;
- the national courts;
- an arbitration tribunal.

When the arbitration tribunal is based in Switzerland, the following two types of legal rules have to be taken into account:

a. If all the essential elements relating to the dispute are in Switzerland, it is the rules of the 1969 International Agreement on that apply.

b. If not, it is the provisions of Chapter 12 of the 1987 Federal Law on private international law (LDIP) that apply. The LDIP states, in particular, that "all cases that are pecuniary in nature can be put to arbitration" (Article 177, paragraph 1).

The Swiss legal system recognises, in principle, private arbitration tribunals; all decisions delivered by arbitration tribunals fulfilling the requirements of independence and impartiality are treated as decisions of the national courts.

An express arbitration agreement is necessary to establish the jurisdiction of an arbitration tribunal. It can be laid down in advance in a contract or a federation's statutes. It can also be concluded after a dispute has arisen (providing, of course, that the dispute has not already been brought before a national court).

Generally speaking, arbitration is a good way of settling sport-related disputes. It is accepted as having the following advantages over the courts: it is faster; it costs less; the arbitrators have greater knowledge of specific sports issues; and the decisions are easier to implement internationally (cf. New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, to which all European and American countries and many African and Asian ones are signatories.

In 1983 the IOC set up the Court of Arbitration for Sport (CAS) in Lausanne in order to provide the world of sport with a fast, advantageous system for settling all disputes related to sport, in the broad sense of the term.

In spring 1993, one of the decisions of the CAS was challenged before the Swiss federal court (ATF 119 II 271). The federal court held that the CAS was sufficiently impartial and independent to be considered a true arbitration tribunal. The judgment included one considerable reservation, however: the CAS needed to be more independent from the IOC. This led to the CAS being completely reorganised; it is now attached to a foundation which is funded equally by the IOC, the international federations and the national Olympic committees, and is composed of an equal number of representatives of sportsmen/women, the international federations, the IOC, and national Olympic committees.

CAS proceedings are governed by the Code of Sports - Related Arbitration of 22 November 1994, which guarantees independent, effective, fast and inexpensive justice.

APPENDIX 1

4. LEGAL BASIS

4.1 At Confederation level

4.1.1 Before 1970

In 1909 the Federal Council passed an Order, revised in 1928 and then replaced on 7 January 1947 by the Order on the encouragement of gymnastics and sports, which is still in force today. A great number of instructions issued by the Federal Military Department are based on this Order, in particular:

School gymnastics:	Directives of 10 February 1947 concerning the teaching of gymnastics in schools. Order of 11 May 1965 concerning gymnastics lessons in schools.
Training of gymnastic teachers:	Examination regulations of 20 May 1959 regarding award of federal diploma I for gymnastics and sports teachers.
Post-school teaching of gymnastics/sport:	Implementing instructions of 18 September 1959.
Gymnastics/sport for adults:	Order of 2 April 1964 concerning gymnastics/sports classes.
Federal Gymnastics and Sports School:	Order of 29 April 1947 concerning school lessons. Decision of 20 January 1948 on setting up the Federal Gymnastics and Sports School. Decision of 10 February 1959 on award of the diploma for male and female sports teachers.

APPENDICES 2 AND 3

4. LEGAL BASIS

4.1 At Confederation level

4.1.2 After 1970

Federal law of 17 March 1972 encouraging gymnastics and sport
RS 415.0 (Appendix 2)
Order of the Swiss Federal Council of 21 October 1987 concerning the encouragement of gymnastics and sports
SR 415.01 (Appendix 3).

APPENDIX 4

4. LEGAL PROVISIONS

4.1 At Confederation level

1. **Federal Constitution of the Swiss Confederation** (17 December 1970).

- "Article 27 quinquies"

2. **Federal Law of 17 March 1972 (as at 1 July 1995) encouraging gymnastics and sports**
RS 415.0

European Convention of 19 August 1985 on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, of 19 August
RS 0.415.3

Anti-Doping Convention of 16 November 1989 (with appendix)
RS 0.415.8
RS 0.812.122.1

Agreement of 8 April 1981 between the Swiss Confederation and the Principality of Liechtenstein on Co-operation in Youth and Sport Affairs
RS 0.415.951.41

3. **Order of the Swiss Federal Council of 21 October 1987 (as at 1 January 1996) concerning the encouragement of gymnastics and sports**
SR 415.01

4. **Order of the Swiss Federal Council of 21 October 1987 on the university training of teachers of physical education.**
R 415.023

5. **Federal Department of Home Affairs (DFI) Order of 11 December 1987 concerning the minimum examination requirements for award of diplomas I and II for PE teachers**
RS 415.023.4

6. **DFI Order of 21 January 1992 fixing the allowances for further training in gymnastics/sports teaching**
RS 415.023.5

7. **DFI Order of 10 November 1980 on Jeunesse + Sport (J+S O)**
SR 415.31
(as at 1 January 1996)

- **Federal Law of 6 October 1989 concerning the encouragement of extracurricular youth activities**
RS 446.1

- **Order of the Swiss Federal Council of 10 December 1990 concerning encouragement of extracurricular youth activities**
SR 446.11

8. **DFI Order of 11 January 1989 concerning the granting of subsidies to the Swiss Sports Association and to sports federations and other sports organisations**
RS 415.41

9. **DFI Order of 21 January 1992 fixing the allowances for lessons organised by gymnastics and sports federations and other sports organisations**
RS 415.025.1

10. **DFI Order of 11 January 1989 concerning the organisation and work of Macolin Federal Sports School**
RS 415.71

11. **DFI Order of 11 January 1989** (as at 1 January 1996) **concerning the training of sports teachers at Macolin Federal Sports School**
RS 415.75

12. **DFI Order of 13 November 1996 concerning the Federal Sports Committee**
RS 172.327.4

13. **Order of the Swiss Federal Council of 14 June 1976 concerning the teaching of gymnastics and sport in vocational schools**
RS 415.022

Order of the Federal Department of Economic Affairs (DFEP) of 1 June 1978 (as at 1 October 1986) **concerning physical education in vocational schools**
RS 415.022.1

14. **Order of the Federal Department of Military Affairs (DMF) of 10 November 1981** (as at 1 January 1995) **concerning examination of conscripts' physical fitness**
RS 511.112

APPENDIX 5

4. LEGAL BASIS

4.3 Areas of law relevant to sport

4.3.1 Public law

Other provisions of federal administrative law which concern sport (this list, which follows the order of the systematic collection, is confined to a few of the main provisions).

- **Swiss Civil Code of 10 December 1907** (CC), RS 210, Article 699, Right of access to another's land.

1. Everyone shall have unrestricted access to other people's forests and pasture... in accordance with local usage, unless the competent authority has issued special prohibitions on access to certain areas of land in order to protect crops.

- **Order of 22 June 1994 regulating value-added tax** (OTVA), SR 641.201

- **Federal law on regional/spatial planning** (LAT), RS 700, Article 22, (Building licences) and Article 24 (Exceptions applying to non-building land)

- **Order concerning traffic regulations (OCR) of 13 November 1962**, RS 741.11, Article 94, Prohibited events; exceptions.

1. The prohibition applies to automobile races around a circuit which are of a public nature and to all races involving repeated and uninterrupted use of a set route if spectators are admitted.

- **Order of 8 November 1978 concerning the granting of licences to operate cable cars,** RS 743.11

- **Order of 22 March 1972 on cable cars for transporting people without a federal licence and on ski lifts**, RS 743.21

- **Federal Law of 3 October 1975 on inland navigation**, RS 747 201

- **Order of 8 November 1978 on navigation in Swiss waters** (Order on inland navigation, ONI), RS 747.201.1

- **Order of 24 November 1994 on special-category aircraft** (OACS), RS 748.941

- **Federal Law of 7 October 1983 on protection of the environment** (Law on protection of the environment, LPE), RS 814.01

- **Federal Law of 30 March 1911 supplementing the Swiss Civil Code** (Book 5: Law of obligations), RS 220
  Law of liability, Articles 41-61
  Labour law, Articles 319-362

- **Federal Law of 19 December 1986 on unfair competition** (LCD), RS 241

- **Federal Law on 6 October 1995 on cartels and other restrictions on competition** (Law on cartels, L Court), RS 251

- **Agreement of 27 March 1969 on arbitration**, RS 279

- **Federal Law of 18 December 1987 on private international law** (LDIP), RS 291

- **Statutes/regulations of sports federations**

- **Order of 19 October 1988 concerning environmental impact studies** (OEIE), RS 814.011
  Article 1: New installations
  Appendix 6: Sport, tourism and leisure

- **Federal Law of 4 October 1991 on forests** (Law on forests - Lfo)
  RS 921.0

Article 5: Prohibition of land clearance; dispensations

Article 14: Access

1. The cantons shall ensure that the public has access to forests.

2. For reasons of forest conservation, or any other reasons of public interest, for example the protection of plants or wild animals, the cantons shall:

a. limit access to certain forest areas;

b. make large-scale events in the forest subject to authorisation.

- **Federal Law of 20 June 1986 on hunting and on the protection of wild mammals and birds** (Law on hunting, LChP), RS 922.0

- **Order of 30 September 1991 concerning special federally protected areas** (ODF), RS 922.31

Article 5: Protection of species

1. The following provisions shall apply generally to special protected areas;

b. animals shall not be disturbed, hunted, nor enticed away from the area;

f. the competent cantonal authority may, in agreement with the landowner, prohibit hang-gliders and paragliders from entering the area;

g. skiing outside marked pistes and trails shall be prohibited;

2. Sports meetings and other collective events shall be allowed only if they will in no way endanger the protection objectives. Organisers shall require permission from the canton.

- **Federal Law of 8 June 1923 on lotteries and professional gambling**, RS 935.51

4.3.2 Private law

Other provisions of private law (this list, which, follows the order of the systematic collection, is confined to some of the main provisions).

- **Swiss Civil Code of 10 December 1907** (CC), RS 210

  Personality, Articles 27-30
  Clubs and associations, Articles 60-79

Federal Law **415.0**
encouraging gymnastics and sport
of 17 March 1992 (as at 1 July 1995), RO **1972** 909

The Federal Assembly of the Swiss Confederation,
having regard to Article 27 *quinquies* of the federal constitution[8];
having regard to the message of 1 September 1971 from the Federal Council[9],
hereby decrees:

I. Scope

Article 1[10]

The purpose of this law is to encourage gymnastics and sport in order to promote young people's development and the health and physical fitness of the population in general. To that end, the Confederation shall:

a. lay down framework regulations regarding gymnastics and sport in schools;

b. have overall charge of *Jeunesse et Sport* organisation;

c.[11] support civil gymnastics and sports federations, other sports organisations, and the organisation of sports events;

d. support scientific research relating to sport;

e. subsidise the construction of national sports facilities;

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[8] RS **101**

[9] FF. **1971** II 785

[10] Amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

[11] Amended by chapter I of the Federal Law of 16 December 1994, in force since 1 June 1995 (RO **1995** 1458 1459; FF **1994** V 132).

f. run a school for gymnastics and sports;

g. set up a committee on gymnastics and sport.

II. Physical education at school

Article 2 1. Compulsory education

1. The cantons shall ensure that sufficient instruction in gymnastics and sport is given in schools.
2. Physical education shall be compulsory in all primary, middle and vocational schools, including teacher-training colleges ("ecoles normales")and higher teacher training institutions.

3. The Confederation may make teaching equipment available to the cantons.[12]

Article 3 2. The teaching of gymnastics and sport in vocational schools

In vocational schools, the teaching of gymnastics and sport shall be governed by the relevant federal and cantonal provisions. The Confederation shall support such teaching.

Article 4[13] 3. Optional sport at school

The Confederation may co-ordinate optional sport at school.

Article 5[6] 4. Instructor training

1. The Confederation may co-ordinate the training of gymnastics and sports teachers.

2. The Confederation shall lay down the minimum requirements to be met by training of PE teachers in universities and shall organise additional classes at the Federal School for Gymnastics and sport.

3. Cantons and associations shall be responsible for the further training of teaching staff. Subject to available appropriations, the Confederation shall have national association's courses and meetings for advanced instruction.

Article 6 5. Supervision

1. The cantons shall be responsible for supervising physical education in schools.

2. The Confederation shall be ultimately responsible for supervising

a. the training of physical education teachers in universities, and

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[12] Introduced by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

[13] Amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

b. physical education in vocational schools. It shall supervise the further teacher training by national associations.[6]

3. The cantons shall periodically submit to the Confederation reports on physical education in schools: on specialised teaching in teacher-training colleges, advanced higher teacher training courses and universities; and on construction of sports facilities.

III. Youth and Sport

Article 7 1. General provisions

1. The aim of the *Jeunesse + Sport* movement shall be to provide further sports training for young people aged 10 to 20, and encourage them to adopt a healthy lifestyle.[14]

2. Membership shall be voluntary.

3. The cantons shall run *Jeunesse+Sport* in co-operation with the relevant federations and organisations, under the supervision of the Confederation.

4. All Swiss organisations with recognised instructors may take part.

Article 8[15] 2.Training of instructors

1. Cantons, gymnastics and sports federations and other institutions shall be responsible for training instructors, under the supervision of the Confederation.

2. The Confederation shall be responsible for training senior and advanced instructors. It may delegate this task to gymnastics and sports federations, or to other institutions.

3. The Federal Council shall determine in which cases the Confederation may delegate training functions to the cantons, or perform them in their stead.

Article 9 3. Responsibilities of the Confederation

1. The Confederation shall cover most of costs of the *Jeunesse+Sport*. The Federal Council shall determine the extent of federal payments. The cantons shall meet a proportion of the costs.[14]

2. The Federal Council shall designate the activities for which the Confederation is responsible.[16]

3. The cantons shall be responsible for taking out civil liability insurance.

4. Adolescents taking part in the activities of *Jeunesse* + Sport and experiencing health problems may consult a doctor free of charge.

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[14] Amended by chapter I of the Federal Law of 17 December 1993, in force since 1 July 1994 (RO **1994** 1390 1391; FF **1993** II 577).. (RO **1987** 107 109 FF **1927** III 705).

[15] Amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

[16] Amended by chapter I of the Federal Law of 17 December 1993, in force since 1 July 1994 (RO **1994** 1390 1391; FF **1993** II 577).

5. The Federal Council shall specify which participants are entitled to reduced fares on the transport services of the Confederation or franchised transport.[14]

6. The Confederation shall lend equipment free of charge.

IV. Civil gymnastics and sports federations, other sports organisations and sports events[17]

Article 10

1. The Confederation shall support the Swiss Sports Association (ASS)[18],[19], as well as affiliated federations whose activities are consistent with the aims of this law. It shall grant appropriate subsidies, shall take part in the technical training of head instructors, and may provide teachers to perform special functions.

2. The Confederation may also support other movements and organisations which are concerned with sport for young people and adults and whose aims are the same as its own.

3. The Confederation may also assist the organisation of international or pan-European sports events, providing that the subsidy from the cantons is at least twice as large.[20]

V. Scientific work

Article 11

1. The Confederation shall promote scientific research relating to gymnastics and sport; to this end, it shall:

a. co-ordinate scientific work;

b. support scientific research programmes;

c. organise surveys, and draw up statistics on the practice of sports;

d. run a scientific research institute attached to the Federal School for gymnastics and sports.

2. The scientific work shall be supported financially, within the limits of the funds assigned to the research institute of the Federal School for Gymnastics and Sports.

VI. Sports facilities and grounds

Article 12

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[17] Amended by chapter I of the Federal Law of 16 December 1994, in force since 1 June1995 (RO **1995** 1458 1459; FF **1994** V 132).

[18] Rectified by the Drafting Committee of the Federal Assembly (Art. 33 LREC - RS 171.11).

[19] Title as amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

[20] Introduced by chapter I of the Federal Law of 16 December 1994, in force since 1 June 1995 (RO **1995** 1458 1459; FF **1994** V 132).

1. The cantons shall ensure that schools have the necessary, facilities and equipment for the teaching of gymnastics and sports. These shall also be used by *Jeunesse+Sport*, and by other organisations dealing with sport for young people and adults.

2. Subject to appropriations voted, the Confederation may subsidise the construction of national facilities for sports training.[21]

3. and 4. ...[22]

VII. Federal School for gymnastics and sports

Article 13

1. The Federal School for Gymnastics and Sport shall perform the functions for which the Confederation is responsible under the provisions relating to encouragement of gymnastics and sport.

2. The school shall provide training and instruction for senior instructors.

3. It shall run a research institute for sports-related scientific research; the institute shall also perform work concerned with medical assistance.

4. It shall have responsibility for *Jeunesse+Sport* and for physical fitness examination of new members; help promote physical education by means of an information, publicity, consultation and documentation service; and carry out technical and administrative duties for the Federal Gymnastics and Sports Committee.

VIII. Federal Sports Committee

Article 14

1. The Federal Gymnastics and Sports Committee shall be made up of representatives of cantons, schools, federations and scientific research; it shall act as the Confederation's technical organ for gymnastics and sports. It shall be consulted before any important decisions are taken in that area.

2. It shall supervise the Federal School for Gymnastics and sport, and *Jeunesse+Sport.*

3. The Federal Council may also delegate responsibility to it for overall supervision of teacher training PE in universities and of physical education in vocational schools, as well as for the supervision of advanced teacher training provided by national associations. [23]

4. The committee shall make proposals concerning grants to encourage gymnastics and sport, and shall ensure that grants are properly used.

5. The committee shall co-ordinate scientific work relating to sport.

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[21] Amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

[22] Revoked by chapter I of the Federal Law of 5 October 1984 (RO **1987** 107; FF **1981** III 705).

[23] Amended by chapter I of the Federal Law of 5 October 1984, in force since 1 January 1988 (RO **1987** 107 109; FF **1981** III 705).

IX. Final Provisions

Article 15 Amendment of legislative provisions

1. The Federal Law of 20 September 1949[24] on military insurance is modified as follows:

Article 1, paragraph 1, sub-paragraph 2, and paragraph 2, sub-paragraph 4.
.....

2. The Federal Law of 25 September 1952[25] on compensation for loss of earnings for members of the armed forces and persons required to serve in the Civil Defence Organisation (Regulations on compensation for loss of earnings) shall be amended as follows:

Article 1, paragraph 3

...[26]

3. The organisation of the armed forces of the Swiss Confederation, of 12 April 1907[27], is modified as follows:

Article 4, paragraph 3

......[19]

Articles 102, 103, and 183 quarter

repealed

Article 16 Entry into force, implementation and supervision

1. The Federal Council shall determine the date of entry into force of the present law.

2. It shall issue instructions for its implementation.

23. The Confederation may verify the use made of federal subsidies by the cantons, and other recipients.

Date of entry into force: 1 July 1972 [28]

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[24] (RO **1949** 1775, **1956** 815, **1959** 316, **1964** 245, **1968** 588, **1973** 1756, **1990** 1882 appendix chapter 9, **1991** 362 chapter II 414; RS **832.20** appendix chapter 5, **837.0** article 116. RS **833.1** appendix chapter 1)

[25] RS **834**. 1. Currently the "Federal Law on the system of compensation for loss of earnings for persons serving in the army or the civil defence force".

[26] Text inserted in the said law.

[27] RS **510.10**

[28] ACF of 23 June 1972 (RO **1972** 915)

Order
concerning the encouragement of gymnastics and sport

415.01

of 21 October 1987, RO **1987** 1703 (as at 1 January 1996)

The Swiss Federal Council,

having regard to Article 16, para. 2 of the Federal Law of 17 March 1972 encouraging gymnastics and sport[29]

hereby decrees:

Chapter One: Physical education in schools

Section 1:

Compulsory education in primary school, and lower and upper secondary schools

Article 1 Principle

1. The cantons shall ensure that three hours a week are given over to physical education in primary and lower and upper secondary schools.

2. They shall ensure that, in addition, half-days, days and camps are organised for sport.

Article 2 Physical fitness

The cantons shall ensure that pupils' physical fitness is verified.

Article 3 Teaching, instruction manuals

1. Teaching staff shall possess the technical and educational training required for the level of teaching assigned to them.

2. The Federal Sports Committee[30], shall publish teaching manuals and make them available to the cantons. It shall decide to whom these are to be supplied free of charge, after consultation with the Office central fédéral des imprimés et du matériel" (Federal Central Office for Printed Matter and Equipment).

Article 4 Co-ordination

Through the Federal Conference for School Gymnastics, the Confederation shall hold regular exchanges of views with supervisory and advisory cantonal bodies on matters of physical education in primary and lower and upper secondary schools.

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[29] RS **415.0**

[30] New title under Chapter 1 of the Order of 16 May 1990, in force since 1 December 1990 (RO **1990** 981). This change has been taken into account throughout this text.

Section 2: Physical education in vocation schools

Article 5

Physical education in vocational schools is governed by the order of 14 June 1976[31] on the teaching of gymnastics and sport in vocational schools.

Section 3: Optional school sport

Article 6

1. The cantons shall ensure that compulsory physical education is supplemented by optional sports lessons and events.

2. The Federal Sports Committee shall co-ordinate optional school sport and shall act as a liaison body for international events.

Section 4: Basic and further training of teaching staff

Article 7 Training of primary school teachers

1. Primary school teachers, who give PE lessons under cantonal law, shall supplement their training in compulsory PE teaching with training teachers.

2. The cantons shall determine examination requirements.

Article 8 Training for PE masters

1. Candidates studying for a federal diploma in PE teaching shall attend and successfully complete the appropriate university course and the additional training courses organised by Macolin Federal Sports School (EFSM)[32], in accordance with the Order of 21 October 1987[33] on university training of PE teachers.

2. Sports science courses leading to award of a degree or doctorate shall be a responsibility of the universities.

Article 9 In-service training

1. The Confederation shall bear the costs of the following events and classes for PE teachers organised by the Swiss Association for Physical Education in Schools:

a. central classes for instructors;
b. central classes for PE teachers in teacher-training institutions ('ecoles normales");
c. central classes for teaching staff;
d. sports meetings and events organised in Switzerland.

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[31] RS **415**.022

[32] New title under Chapter 1 of the Order of 16 May 1990, in force since 1 December 1990 (RO **1990** 981). The change has been taken into account throughout this text.

[33] RS 415.023

2. It may promote events organised by the Conference of Directors of University Sports Institutes for lecturers and graduates of those institutes by allocating grants to them.

3. With the agreement of the Federal Finance Department, the Federal Department of Home Affairs (hereafter referred to as "the department") shall determine the amount of allowances paid to instructors conducting and participants attending central classes.

4. The Confederation may subsidise any publications on physical education in schools which are relevant to the further training of teachers.

Chapter 2: "*Jeunesse + Sport*"

Section 1 General

Article 10 Definition

The purpose of "*Jeunesse + Sport*" (J+S) shall be to provide training for young people, through instruction and events, in particular branches of sport and to provide basic and further training for general and senior instructors.

Article 11 Sports covered

1. J+S shall be composed of sports which contributes to the improvement of physical fitness, primarily with a view to young people's overall development. The following criteria shall apply:

a. technical, financial and human resources shall remain within acceptable limits;
b. there shall be no danger to the health and safety of participants, or to the environment;
c. the ideals and educational objectives of the sports concerned shall be compatible with the ethical principles of society.[34]

2. Further to proposals by the Federal Sports Committee, the department shall choose the sports and decide training courses and examinations.

Article 12 Administration and management

1. Each canton place an administrative department in charge of J+S.

2. Overall management of J+S shall be assigned to the EFSM[35]. The cantons, together with the relevant federal associations and institutions, shall play an advisory part in the overall management.

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[34] Amended by chapter I of the Order of 6 June 1994 (RO **1994** 1392).

[35] Acronym as amended by Chapter 1 of the Order of 16 May 1990, in force since 1 December 1990 (RO **1990** 981). The change has been taken into account throughout this text.

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Section 2: Participants, instructors and senior instructors

Article 13 Participants

1. Swiss nationals and foreigners resident in Switzerland may take part in the specialist sports courses from 1 January of the year in which they reach the ago of 10 until 31 December of their 20th year.[36]

2. Other persons may also be admitted to J+S, but they shall not be eligible for any support from the Confederation.

Article 14 Instructors and senior instructors

1. Those eligible to become instructors are Swiss nationals of either sex, and foreigners of either sex holding a residence permit, providing they have appropriate training and are of good reputation. The EFSM may allow exceptions to be made in the case of other foreigners.

2. Instructors shall be trained by senior instructors. By "senior instructors" is meant specialists, trainers and advisers.

3. The department shall specify the duties of senior instructors and instructors, regulate their basic and further training, and lay down rules governing withdrawal or loss of J+S instructor status. It shall also lay down disciplinary rules concerning EFSM instructors and senior instructors who are not covered by the regulations for civil servants of 30 June 1927[37]/[38]

Section 3: Assistance by the Confederation

Article 15 Subsidies to specialist sports[39]

1. The Confederation shall grant subsidies to organisers of specialist sports instruction to cover:

a. instruction;
b. instruction and camp expenses where the course involves one or more overnight stays.[14]

2. The cost of instruction shall be calculated according to the number and category of instructors, the number of participants, and the duration of the training and additional authorised activities.

3. The camp subsidy shall depend on the number of participants and the duration of the camp.[35]

4. ...[38]

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[36] Amended by chapter I of the Order of 26 April 1995, in force since 1 January 1995 (RO **1995** 1392).

[37] RS **172.221.10**

[38] Amended by chapter I of the Order of 6 June 1994 (RO **1994** 1392).

[39] Revoked by chapter I of the Order of 6 June 1994 (RO **1994** 1392).

Article 15 a[40] Subsidies to the cantons to promote J+S

1. The Confederation shall grant subsidies to the cantons to promote J+S.

2. The subsidies to the cantons to prompt J+S shall be calculated according to the subsidies granted to organisers in the canton under Article 15, and according to the canton's financial capacity. They shall equal half of the final amount thus obtained.

Article 16 Subsidies for the remuneration of advisers.

The Confederation shall grant subsidies to the cantons for the remuneration of advisers who supervise, discuss and attend J+S events.

Article 17 Subsidy of training for instructors and senior instructors

1. The Confederation shall bear the cost of federal classes for instructors, and pay an allowance to the participants.

2. It shall pay part of the cost of training for instructors and senior instructors organised by the cantons, federations and other institutions. The subsidy shall be calculated according to the number of participants and the duration of the training.

Article 18 Allowance to consultative committees

The Confederation shall grant an allowance to consultative committees for their work, under Article 12, paragraph 2.

Article 19 Amount of subsidies, method of payment and lump-sum grants

1. The department shall determine the amount of the subsidies with the agreement of the Federal Finance Department, and establish how they are to be paid.

2. The department shall make a lump-sum grant to federations in those sports which receive only limited grants from the EFSM.

3. The provisions of the Federal Law of 5 October 1990[41] on subsidies shall apply. [12]

Article 20 Insurance

1. ......[42]

2. During national events authorised by the EFSM, the Confederation shall cover the liability of participants with respect to third parties in the same way as if they had civil liability insurance. The law on liability[43] is unaffected.

Article 21[44] Travel and transport costs

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[40] Introduced by chapter I of the Order of 6 June 1994 (RO **1994** 1392).

[41] RS **616.1**

[42] Revoked by chapter I of the Order of 6 June 1994 (RO **1994** 1392).

[43] RS **170**.32

In agreement with the Federal Department of Transport, Communications and Energy the department shall decide which persons are to have all or half their travel expenses met by the Confederation and the loaned equipment for which the Confederation is to reimburse transport costs.

Article 22 Other assistance

1. In agreement with the Federal Military Department, the department shall regulate lending of equipment and topographical maps to J+S, and the making available of army billets, army food supplies and army vehicles.

2. In agreement with the Federal Military Department the federal and cantonal arsenals shall be responsible for the storage, maintenance and transport of loaned equipment and the cost shall be met by the Intendance du matériel de guerre (Office for War Supplies)

Article 23 Insignia and printed matter

The Confederation shall make the necessary insignia and printed matter available to cantons and organisations. The Central Federal Office for Printed Matter and Equipment for the distribution of printed material is unaffected. The EFSM shall determine, in each case, the proportion of the costs to be met by the canton or organisation.

Chapter 3:

Swiss Sports Association, gymnastics and sports federations and other sports organisations

Section 1: Federal subsidies

Article 24 Conditions

1. The Confederation shall grant subsidies to the Swiss Sports Association (ASS) and to affiliated gymnastics and sports federations, providing that:

a. they make an effective contribution by virtue of size, aims and activities, to maintaining the physical fitness of the population;
b. their statutes and activities are not contrary to the interests of the country;
c. their organisation and management guarantee that federal subsidies are used in accordance with the stated aim.

2. It may support other organisations encouraging sport for young people and adults, as well as other work in the same area, providing that the conditions set out in paragraph 1 are met.

Article 25 Use and distribution

1. The department shall make ASS lump-sum grant in respect of the duties it performs in its capacity as an umbrella organisation and any special measures it takes to promote sport.

2. The amount of subsidies allocated to gymnastics and sports federations affiliated to the ASS shall be calculated according to membership, number of clubs, teaching services provided, and

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[44] Amended by chapter I of the Order of 26 April 1995, in force since 1 January 1995 (RO **1995** 1392).

involvement in competitive sport. Federations shall use the subsidies to train instructors and competitors and to cover resultant planning and organisation costs.

3. Subsidies granted to other organisations encouraging sport for young people and adults, and for other work in the same area, shall be made on a lump-sum basis. They must be used in particular to train instructors and to cover resultant planning and organisation costs.

4. If the basic and further training of instructors and senior instructors meet the J+S requirements, assistance shall be granted in accordance with Article 17, para 2; Article 21, para 1; and Article 22, para 1.

5. The department shall regulate the distribution and use of federal subsidies in detail.

Section 2: Other incentive measures

Article 26

The Confederation may take other incentive measures. It may, in particular, grant subsidies for the basic and further technical training of teachers and for assigning staff of the Confederation to particular duties.

Chapter 4: Scientific research on sport; statistics

Article 27 Scientific research in sport

1. The EFSM shall carry out basic and applied research in sports sciences such as sports medicine, sociology, psychology and education and shall deal with development of sports facilities. It shall help co-ordinate research policy, in accordance with the law of 7 October 1983[45] on research.

2. To complement the research work of the EFSM, the Confederation may support scientific research projects on sport by means of subsidies amounting to between 30% and 70% of expenditure eligible for subsidy. The following expenditure items shall, in principle, be considered eligible for subsidy:

a. remuneration of staff conducting the project and the necessary auxiliary staff;
b. preparation of reports;
c. necessary equipment and material.

Article 28 Statistics

The department may order surveys and analyses relating to sports statistics. These shall be carried out by the Federal Statistics Office.

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[45] RS 420.1

Chapter 5: Gymnastics and sports facilities

Article 29

1. The Confederation may grant subsidies for the construction or extension of facilities for sports training, providing that:

a. the facilities meet a national need from the technical standpoint as well as being of national importance from the planning and operation standpoints;
b. their construction and operation are financially guaranteed;
c. the facilities are to be used by the recipients of subsidies, or on their behalf;
d. the facilities are not used for financial gain.

2. Subsidies shall amount to between 15% and 45% of the reckonable expenditure; their amount shall depend on the financial capacity of the canton and on the benefits to the Confederation. Purchase of the land does not constitute expenditure eligible for subsidy.

Chapter 6: Arrangements for granting of subsidies

Article 30 Requests for subsidies

1. Requests for subsidies shall be sent to the EFSM before work commences, with all the necessary documentation.

2. Any modification or extension of a project shall be covered by an additional request.

Article 31 Decision

1. The Federal Council shall take decisions on the granting of subsidies to encourage international sports events.

2. On a proposal from the Federal Sports Committee, the department shall decide the granting of federal subsidies to:

a. community gymnastics and sports federations and other sports organisations;
b. sports facilities;
c. further training for teachers;
d. scientific research projects on sport.

3. The Federal Sports Committee shall have overall responsibility for supervising the use of federal subsidies

Article 32 Payment of subsidies

1. On completion of the project, a detailed breakdown of expenditure shall be sent to the EFSM.

2. Once the EFSM has checked the breakdown, and that the project has been carried through, it shall pay the subsidy.

3. Where a properly reasoned request is made, the EFSM may make an advance payment of up to 80% of the final subsidy.

Article 33 Cancellation and repayment obligation

1. The department shall cancel its decision to grant a subsidy if the subsidy is paid in error, on the basis of false or incomplete information.

2. It shall require repayment of the subsidy, in full or in part, and may ask for interest to be paid if:

a. a facility is closed down or disposed of;
b. the recipient does not perform the agreed function, or only partially performs it.

Chapter 7: Macolin Federal Sports School

Article 34 Headquarters

The EFSM shall be based in Macolin. The National Sports Centre for Young People, Tenero (CST), shall be attached to it.

Article 35 General duties

1. The EFSM shall encourage sport as an element of our civilisation. In addition, it shall teach, study and support sport from the education, health and recreation standpoints.

2. It shall deal with all questions relating to gymnastics and sports on behalf of the Confederation. In particular, it shall manage the J+S movement. In collaboration with Military Training Group Headquarters it shall organise physical fitness examinations for conscripts and for women applying to join the women's army corps.

3. It shall perform secretarial and administrative duties for the Federal Sports Committee and serve as a technical body on sub-committees.

4. It shall report to the Federal Office of Employment, Trade and Industry and the Federal Office of Agriculture on specialist matters relating to physical education in vocational schools.

5. It shall procure gymnastics and sports equipment for the Confederation.

Article 36 Training centre

1. Independently or in collaboration with the competent institutions, the EFSM shall organise J+S instructor and senior-instructor courses; coaching instruction; training courses for students studying for a federal PE teaching diploma courses; courses in sports science; national and international conferences; and senior-military sport instructor training.

2. The EFSM shall draw up programmes of senior military-sport instructor raining. It shall plan and organise military-sport as directed by the head of armed forces training, and sports training for the defence corps and border guard corps. It shall co-ordinate the procurement of sports equipment for the armed forces and for J+S.

3. The EFSM shall make its facilities available to gymnastics and sports federations for advanced training of instructors. It shall also make them available to senior and junior national squads.

4. The EFSM shall deal with a number of general questions relating to the development of gymnastics and sports. It may publish teaching manuals; make coaches available to elite sport in specific cases, and co-operate with regional sports centres on technical matters.

Article 37 Training of sports teachers[46]

1. The EFSM shall organise a three-year course of study in sport leading to an EFSM diploma for sports teachers. The number of students admitted shall depend on how many students the course can accommodate.[45]

2. The EFSM may award a certificate of specialisation in a particular sports discipline when the student:

a. possesses a diploma from a private sports federation qualifying him/her to teach the discipline concerned; and
b. has completed at least half the course of study described in paragraph 1, and has passed the course examinations45.

3. The department shall lay down rules regarding admissions, course content, and examinations.

Article 38 Documentation, consultation and management

The EFSM shall perform documentation, consultation and management duties relating to gymnastics and sports.

Article 39 Fees and remuneration

The department shall issue regulations concerning fees and remuneration for the services provided by the EFSM.

Chapter 8: Federal Sports Committee

Article 40 Composition, appointments and subordination

1. The Federal Sports Committee (hereafter referred to as the Committee) shall be made up of representatives of conferences of: heads of cantonal public education and cantonal military departments; the Swiss University Conference; the Military Training Group Headquarters; the Swiss Sports Association; gymnastics and sports federations; and the Swiss Association for Physical Education in Schools; universities training PE teachers; university sport; vocational training; the city of Biel; and other competent individuals. It shall have a maximum of 25 members.

2. The department shall appoint the president and the members of the Committee. The Committee shall be responsible for appointing delegates and forming sub-committees.

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[46] Amended by chapter I of the Order of 18 October 1995 (RO **1995** 4424).

3. The Committee shall report direct to the head of the department.

Article 41 Duties performed as a technical body

1. In its capacity as the technical body of the Confederation, the Committee shall perform the following functions:

a. advising the department on all basic matters concerning gymnastics and sport;
b. keeping abreast of developments in gymnastics and sport in Switzerland and abroad; participating in the work of specialist national and international organisations; and providing support to national and international conferences held in Switzerland.

2. The Committee shall fulfil its consultative role in accordance with its mandate from the department, or as it sees fit. The department must consult the Committee before taking any important decisions.

Article 42 Supervision of the Macolin Federal Sports School

1. The Committee shall be responsible for supervision of the EFSM. It shall visit the EFSM regularly, and ask it for reports on important matters.

2. The Committee shall submit opinions to the department of its opinion on the programme and progress report, as well as on important matters relating to development of the EFSM.

Article 43 Supervision of Jeunesse + Sport

1. The Committee shall ensure the proper functioning of J+S.

2. On a proposal from each canton, it shall appoint federal inspectors who shall regularly report on their work to the Committee through the sub-committee.

Article 44 Overall supervision of the training of PE teachers

The Committee shall co-ordinate and supervise the training of PE teachers in accordance with the Order of 21 October 1987[47] on the training of PE teachers in universities.

Article 45 Overall supervision of physical education in vocational schools

Together with the Federal Office of Employment, Trade and Industry, the Committee shall have overall responsibility for the supervision of physical education in vocational schools.

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[47] RS 415.023

Article 46 Duties concerning physical education in primary and lower and upper secondary schools

1. The Committee shall publish handbooks (Article 3, para 2); co-ordinate optional school sport (Article 6, para 2); and regularly organise the Federal Conference on School Gymnastics (Article 4).

2. It shall co-ordinate the training of teachers in charge of physical education in primary schools.

3. It shall supervise the events and central further training organised by the Swiss Association for Physical Education in Schools and by the Conference of Directors of University Sports Institutes.

Article 47 Co-ordination of scientific research relating to sport

The Committee shall co-ordinate scientific research in sport, and work in particular with the Swiss University Conference.

Article 48 Organisation

1. The Committee shall appoint specialists, who may - but need not necessarily - be Committee members, to form the following sub-committees:

a. Sub-Committee on Physical Education in Schools;
b. Sub-Committee on the training of PE teachers;
c. Sub-Committee on Physical Education in Vocational Schools;
d. Sub-Committee on J + S;
e. Sub-Committee on Sport for Adults
f. Sub-Committee on Scientific Research relating to Sport;
g. Sub-Committee on Gymnastics and Sports Facilities.

2. It may set up working groups and appoint delegates to perform specific functions.

Chapter 9: Jurisdiction

Article 49

1. Appeals may be made to the department regarding decisions taken by the EFSM, providing this is done within 30 days of their notification.

2. Appeals against decisions taken by the department in the first instance, appeals against decisions of the department regarding appeals, and appeals against decisions taken at last instance by the cantons, shall be governed by the general provisions on the federal courts.

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Chapter 10 Final provisions

Article 50 Repeal of laws in force

The following are repealed:

1. The Order of 26 June 1972[48] concerning the Federal Law encouraging gymnastics and sports;
2. The DMF Order of 21 December 1972[49] on physical education in schools;
3. The Order of 20 December 1972[50] on the granting of subsidies for sports installations;
4. The DMF Order of 27 February 1973[51] on requests for subsidies for sports installations.

Article 51 Entry into force

This Order shall enter into force on 1 January 1988.

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[48] (RO **1972** 1017;RS **172.010.19** art 3 sub-para a, 10 **415.022** art 18, **611.041** chapter I 51)

[49] (RO **1973** 321, **1978** 38; RS **172.010.19** art.15 para 2 sub-para a)

[50] (RO **1973** 183; RS **172.010.19** art. 3 sub-para b, **611.041** chapter I 52)

[51] (RO **1976** 505, **1978** 39; RS **172.010.19** art. 15 para 2 sub-para g)

UNITED KINGDOM

SPORT AND LEGISLATION IN THE UNITED KINGDOM

A paper outlining the institutional framework for sport
in the United Kingdom, and the relationship between sport and the law

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INTRODUCTION

1 The purpose of this paper is to provide an introduction to the organisation of sport in the UK with particular reference to the relationship between sport and the law. Since the production of the second edition of this paper, the most significant changes affecting sport in the UK have taken place in the political sphere following the election of a new Labour government in May 1997. This has meant the appointment of new ministers and the renaming of the ministry with responsibility for sport at UK level and for England as the Department for Culture, Media and Sport and renewed government commitment to the principles of sport for all.

2 A second event with potential significance for sport in Scotland and Wales is the decision taken by both of those countries to establish their own separate national assemblies in addition to the parliament in Westminster. The practical implications for sport cannot yet be assessed, however, it is likely that funding for the Sports Councils and the appointment of Members will be made through the national assemblies instead of the home country Departments.

3 The structure of sport in the UK remains complicated by, firstly, the existence of four home countries (England, Wales, Scotland and Northern Ireland), in the case of Scotland with a different legal system and legislation, and secondly, by the nature of the voluntary sector which organises and regulates sport. This paper aims to identify the various significant agencies involved, their functions and legal status.

4 The following sections of the paper cover:

4.1 the structure of sport in the UK

4.2 the political framework

4.3 key pieces of legislation

4.4 funding for sport

4.5 legal issues, examples of where the authority of the governing bodies may be challenged in court

4.6 Appendix A

4.7 Appendix B

SECTION 1: STRUCTURE OF SPORT IN THE UK

5 Voluntary Sector

5.1 Voluntary Sector - National Level

5.1.1 Governing bodies - independent membership organisations responsible for the administration and regulation of individual sports. There are over 400 governing bodies in the UK covering almost 90 different sports. A number of bodies operate on a UK or Great Britain basis, others within one of the four home countries.

Governing body membership systems vary and may include club membership and/or individual membership. Nevertheless, there is generally no compulsion on participants to join the governing body for their sport and the majority of participants, who are not interested in governing body competition or elite sport, are not members. There are a few sports, for example parachuting, where for safety reasons all participants must be governing body members.

Few governing bodies own any sports facilities. Although they are voluntary organisations, most governing bodies now have a number of paid employees.

5.1.2 British Olympic Association - responsible for the development of the Olympic movement in the UK. Its members are mainly the UK governing bodies of IOC recognised sports. The BOA's principal function is to organise and coordinate the participation of the British team at Olympic Games. More recently, it has undertaken some work on support and training for athletes and team officials.

5.1.3 British Sports Forum - formed in 1991 to improve co-operation and communication within the voluntary sports sector in the UK. Organisations in membership include the BOA, the home country sports federations and six of the seven UK commonwealth games associations. (Not the Commonwealth Games Council for England.)

5.1.4 Home country sports federations - the Central Council of Physical Recreation, in England; the Scottish Sports Association; the Welsh Sports Association, and the Northern Ireland Council for Physical Recreation. These organisations represent the interests of the governing bodies constituting their membership and are advisory bodies to their respective home country Sports Councils.

5.1.5 Commonwealth Games Councils - in England, Scotland, Wales and Northern Ireland, and Commonwealth Games Associations in Jersey, Guernsey and the Isle of Man. Their function is to organise their teams for the four yearly Commonwealth Games, and other Commonwealth competitions, and to promote the concept of participation and competition within the Commonwealth.

5.1.6 Other national organisations - there are a large number of other non-profit making national organisations established to provide co-ordination and support to their members on a wide range of subjects including recreation management, sports science, sports medicine, sport for people with disabilities, student sport, school sport, etc.

5.2 Voluntary Sector - Local level

5.2.1 Regional governing bodies - the regional arms of the national governing bodies, promoting regional level competition and providing support for member clubs and individuals. Few governing bodies employ staff to work at regional level.

5.2.2 Sports clubs - in the UK these are mostly single sports clubs. At this level the vast majority of the work of running sport is undertaken by volunteers.

6 Public Sector

6.1 Public Sector - National level

6.1.1 Department for Culture, Media and Sport (DCMS), formerly the Department of National Heritage (DNH) - the government department with lead responsibility for sport in England and for matters of a UK nature. Within the department lies the Sport and Recreation Division with 25 members of staff.

The Department's Cabinet minister is the Secretary of State for Culture, Media and Sport. S/he is assisted by two ministers at the DCMS, one of whom has direct responsibility for sport. The responsibility for sport in Scotland, Wales and Northern Ireland lies with the respective home country ministries and Secretaries of State. In 1995 the DNH published a policy document on sport named "Raising the Game". The Welsh Office equivalent was "Young People and Sport in Wales". The Labour Party published their own sports policy document, "Labour's Sporting Nation", in April 1997. The DCMS also has responsibility for policy and control of the National Lottery and oversees the lottery grant distributing bodies.

6.1.2 Sports Councils - comprise the UK Sports Council, the English Sports Council, the Scottish Sports Council, Sports Council for Northern Ireland and the Sports Council for Wales.

The UK Sports Council's role is to support and improve performance by UK and GB teams and athletes in the international arena. The home country Sports Councils are developmental and funding agencies for sport and are variously charged with responsibility for the promotion of sport, increasing participation, raising standards of performance at home country level and improving facility provision. The home country Sports Councils were bodies designated through the National Lottery etc. Act 1993 as lottery sports fund distributors. In the case of UK/GB activities lottery monies are distributed taking account of UK Sports Council recommendations. The Councils work in partnership with other agencies from the voluntary, commercial and public sectors in order to achieve their objectives.

The UK and English Sports Councils were both created by Royal Charter in 1996 and replaced the Sports Council (GB) which covered the responsibilities of both of the new bodies. The new structure provides greater transparency in the allocation of resources for specifically English purposes or for activities of a UK nature.

6.2 Public Sector - Local level

6.2.1 Local authorities - There is no statutory requirement on local authorities to provide recreational opportunities or facilities (except within the school curriculum and in Scotland - see paragraph 13). Nevertheless, the majority do provide leisure services, usually including some facilities. Local authorities spend considerably more per annum on sport and recreation than any other sector. Local authorities (and other school providers) do, however, have a statutory responsibility to provide sport for schoolchildren, with recommended minimum facilities and curriculum hours. Local authorities also have responsibility for the licensing of sport stadia.

6.2.2 Regional fora were established in the first half of 1996 to replace the old Regional Councils for Sport and Recreation. The new fora are independent from the regional offices of the English Sports Council, which had provided the secretariats for the old Regional Councils.

These are now provided by a local authority, or other non-Sports Council agency in the region, although in some cases the English Sports Council provides some financial assistance. The regional fora were set-up to ensure continued communication and discussion at regional level between key players, including local authority members and officers, the voluntary sector, related organisations and the regional offices of the English Sports Council.

There are four Regional Liaison Committees in Wales, which meet bi-annually to discuss issues of mutual interest and concern between the Sports Council for Wales and local authorities.

7 Commercial sector

7.1 Commercial sector - National level

7.1.1 British Sports and Allied Industries Federation (BSAIF) - the trade body for manufacturers, importers and retailers of goods for sport and recreation.

7.1.2 National companies - including manufacturers, retailers and service providers. They contribute to the economic impact of sport and in many cases support sports promotion and excellence through sponsorship.

7.2 Commercial sector - Local level

7.2.1 Local companies - similar to the larger national companies, but contributing on a smaller scale, often becoming closely involved with local club activities.

7.2.2 Commercial sports clubs -which include professional clubs within football, cricket and rugby and also many health and fitness clubs.

SECTION 2: THE POLITICAL FRAMEWORK

8 Government Departments involved in sport and recreation

8.1 With responsibility for national policy:

8.1.1 Department for Culture, Media and Sport (England and UK), Scottish Office (Scotland), Welsh Office (Wales), Department of Education for Northern Ireland (Northern Ireland) - (see paragraph 6.1.1 above).

8.1.2 Department for Education and Employment - responsible for the development of the national curriculum in primary and secondary schools of which physical education is one of the foundation subjects. The recommended minimum allocation of curriculum time to physical education is 1 to 1.5 hours per week (or about 5% of curriculum time). The Department is also responsible for community use of school sports facilities. The Welsh Office is responsible for education policy and the National Curriculum in Wales, with a separate Schools Curriculum and Assessment Authority (SCAA). There is no recommended minimum allocation of curriculum time in Wales as the SCAA refuses to include a reference to it within their documents.

8.1.3 Department of the Environment - responsible for policy on planning and regional development, environment matters, conservation, water and the countryside, inner cities and urban regeneration. The Department funds the Countryside Commission, English Nature and National Parks. In Scotland, Wales and Northern Ireland the respective Departments have responsibility for these matters.

8.2 Licensing and managing departments:

8.2.1 Home Office - covers safety of spectators and of stadia and recreational grounds. Also, the control of weapons including firearms and the control of gaming and betting.

8.2.2 Health and Safety Executive - produces guidelines on safety in sports facilities, swimming pools, playgrounds and outdoor activity centres and regulates professional sub-aqua divers and diving instructors.

8.2.3 Ministry of Agriculture Fisheries and Food - responsible for agricultural land use, including its use for recreational purposes, and has important links with major land owners e.g the Forestry Commission. Also responsible for issuing fishing licences.

8.2.4 Ministry of Defence - responsible for the provision of sports facilities within the armed forces, including major sites - such as the national shooting centre at Bisley - used by civilians.

8.2.5 Ministry of Transport - responsible for road cycle race permission, the provision of cycle paths and for overseeing the Civil Aviation Authority, which is responsible for the control of air, sports.

SECTION 3: LEGISLATION

9 Nineteenth Century

The main concern during this time was to ensure a healthy work force to provide labour during the industrial revolution and a fit male population for active service. There were tight controls on leisure time activity (e.g no organised sport permitted on Sunday) and the emphasis was on health rather than enjoyment. Nevertheless, many governing bodies were established at this time.

9.1 1846 - Baths and wash-houses Act

9.2 1875 - Public health Act

(gave permission to buy land for public parks and constituted the basis of the creation of urban spaces for sport)

9.3 1870 and 1902 - Education Acts

(laid down requirements for PE which concentrated on physical training and drill and did not promote sport for all)

10 Twentieth Century

Initially still concerned with the needs of the military but gradually, with peacetime, there has been increasing recognition of the benefits of sport for all and the development of provision for all to participate as a right.

10.1 1936 - Public Health Act

(introduced permission to build public baths exclusively for swimming)

10.2 1937 - Physical Training and Recreation Act

10.3 1944 - Education Act

(required local authorities to provide facilities for recreation and physical education and led to the growth of facilities in schools and trained PE staff)

10.4 1949 - National Parks and Access to the Countryside Act

10.5 1965 - Establishment of the Advisory Sports Council

10.6 1972 - Creation by Royal Charter of the Sports Councils

11 Key pieces of legislation currently in force

11.1 1981 - Wildlife and Countryside Act

(designated Sites of Special Scientific Interest which restricted recreational access in certain areas)

11.2 1986 - Education (No 2) Act

(introduced Local Management of Schools, raised concerns about the future of dual use - i.e school/community recreation - facilities, which was partly allayed by the Education (School Premises) Bill 1992)- 1993 Education Act (sections 238 and 239, Schedule 13) allows transfer of control agreements between schools and unitary authorities, overcoming problems created by the 1986 Act.

11.3 1988 - Local Government Finance Act

(contained implications for voluntary sports clubs regarding rate relief from local authorities)

11.4 1988 - Education Reform Act

(concerned the National Curriculum and included PE as a compulsory subject)

11.5 1988 - Firearms (amendment) Act

(introduced restrictions on the use and storage of firearms)

11.6 1989 - Water Act

(included implications for access to, and management of, water and countryside)

11.7 1989 - Children Act

(required qualified supervisors for children and limited the permitted size of groups. Affected holiday sports courses and crêches)

11.8 1989 - Local Government and Housing Act

(restricted the options available to local authorities in the financing of capital developments and led to reduced capital spending and borrowing)

11.9 1989 - Local government, England and Wales, local government Scotland. The Local Government Act 1988 (competition in sports and leisure facilities) order 1989

(introduced compulsory competition to the management of public sport and leisure facilities. This resulted in cuts in staffing levels and led to concern over reduced sports development programmes and increases in prices)

11.10 1990 - Environmental Protection Act

(laid down minimum environmental standards and affected water based activities)

11.11 1992 - Local Government Act

(led to the loss of leisure specific departments within a number of local authorities)

11.12 1993 - National Lottery etc. Act

(concerned the setting up of the National Lottery)

11.13 1995 - Environment Act

(established a new environmental protection agency concerned with the management of sensitive areas and countryside access issues)

11.14 1995 - Activity Centres (Young Persons Safety) Act

(concerned with safety standards for young people taking part in outdoor pursuits)

11.15 1995 - Olympic Symbols (Protection) Act

(this gives exclusive rights to the BOA to market for commercial purposes the Olympic symbol and Olympic words in the UK)

11.16 1996 - Broadcasting Act

(up-dates the 1990 Act and lists major events which must be available to non-pay TV broadcasters, ie neither satellite nor cable TV)

11.17 1997 Firearms (Amendment) Act

(Prohibits all handguns above .22 calibre, with those of a lower calibre having to be kept at registered gun clubs)

12 For a more comprehensive list of relevant legislation see Appendices.

13 Statutes affecting sport in Scotland

Many of the foregoing statutes affect the whole of the United Kingdom and therefore apply in Scotland. Because of its separate legal system, however, there are some statutes which only affect Scotland and, therefore, only sport in Scotland. In addition, it is worth saying that Local Government law and criminal law are entirely different in Scotland. The prominent statutes which affect sport in Scotland therefore are:-

13.1 1424 - The Football Act

(the Parliament of James I forbade playing of football)

13.2 1457 - The Wappenschaws Act

(the Parliament of James II decreed that football and golf be "utterly cried down"; they were interfering with the Wappenschaws (a periodical muster or review of men under arms)

13.3 1471 - The Armour Act and the Wappenschaws Act of 1491

(Acts passed by the Parliaments of James III and James IV largely to the same effect)

13.4 1592 and 1593 - Decrees of the Town Council of Edinburgh

(exhorting the inhabitants to desist from sports activities, especially golf, on the Sabbath)

13.5 1656 - Act for the Better Observance of The Lord's Day

(sought to prohibit profanity among those who kept, used or were present at such events as wrestling, shooting, bowling and any other sports and pastimes. In the same period another Act provided penalties for those who printed or published papers, books or pamphlets advocating sports and pastimes on the Lord's day)

13.6 1906 - The Prevention of Corruption Act (as amended by the Criminal Justice Act 1967)

(makes bribes offered to footballers corruption)

13.7 1912 - Protection of Animals (Scotland) Act

(it is an offence (1) to cause, procure or assist animal fights; (2) to keep, use, manage or assist in managing premises for animal fights; and (3) to permit premises to be so kept, managed or used, thus, for example, dog fighting and cock fighting are illegal)

13.8 1937 - Children and Young Persons (Scotland) Act

(provided statutory restrictions on the employment of children and young persons by, for instance, professional football clubs, as did the 1974 Employment of Children Act)

13.9 1960 - Occupiers Liability (Scotland) Act

(may involve owners and occupiers of sports grounds as well as promoters of events owing a duty of care to participants, spectators and third parties)

13.10 1962 - Transport Act

(vests canals and inland waterways under public ownership in the British Waterways Board which may make bye-laws preventing or regulating bathing in its canals and for prohibiting or controlling water skiing or any similar activity. Similarly, under the 1971 British Waterways Act, 1954 British Transport Commission Act, 1988 Road

Traffic Act, promoters and participants in races or trials of speed between motor vehicles or cycles on public roads commit an offence)*

13.11 1967 - Countryside Scotland Act

(provision of facilities for recreational sporting use of inland waterways managed and operated by Regional and Islands Councils as Water Authorities remain their responsibility of these Councils as the appropriate Local Authority in each area)

13.12 1972 - Royal Charter granted to the Scottish Sports Council.

13.13 1973 - Local Government (Scotland) Act

(Regional, Islands and District Councils were given powers pertaining to recreational activities but only the Regional Councils had a positive duty in consultation with the District Councils to ensure that there was adequate provision of facilities for inhabitants of their Regions)

1973 - Local Government (Scotland) Act

(Community Councils may express views on *inter alia* matters relating to sport and recreation to the relevant local authority and can take such actions as appear to them expedient and practicable)

13.14 1975 - The Reservoirs Act

(provision of facilities for recreational sporting use of reservoirs managed and operated by Regional and Islands Councils as Water Authorities remain their responsibility)

13.15 1975 - Sex Discrimination Act

(Section 34 exempts private clubs from the operation of the Sex Discrimination Act and many sports clubs still exclude women from membership) *

13.16 1976 - Licensing (Scotland) Act (as amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990)

(provides a system of registration for the sale of alcoholic liquor on club premises. There are special exemptions relating to clubs which are "primarily an athletic club" in relation to their having juniors as members)

13.17 1977 - Unfair Contract Terms Act

(severely restricts the possibility of exclusion of liability for personal injury or death in tickets for sporting events) *

13.18 1980 - Education (Scotland) Act

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* These statutes are UK statutes

(an education authority (a Regional or Islands Council) has a statutory duty imposed upon it as an education authority for pupils in attendance at schools in their area to secure the provision of recreational facilities and for physical education and training)

13.19 1980 - Criminal Justice (Scotland) Act

(Fireworks etc - constitute controlled articles or substances, the possession of which is an offence at a designated sporting event or sports ground. Under the same Act there is statutory control of alcohol at sporting events in Scotland taking place at designated sports grounds or classes of sports grounds. All Senior and Highland League football grounds and the Murrayfield Rugby Stadium have been designated. Interestingly, all Senior, International, European and Highland League football matches outside Great Britain involving such teams and international rugby matches are included among designated sporting events)

13.20 1982 - Local Government and Planning (Scotland) Act

(Islands and District Councils are charged with ensuring that there is adequate provision of facilities for inhabitants of their area for recreational activities)

1982 - Local Government and Planning (Scotland) Act - Section 14 (2)

(allowed Regional Councils to make funds available for purposes connected with sport)

1982 - Local Government and Planning (Scotland) Act - Section 18

(gave local authorities power to make bye-laws to regulate sport)

13.21 1983 - The Valued Added Tax Act

(the consolidation of VAT statutes beginning with the Finance Act 1982) made the supply of sporting services by a club liable to VAT, where the club turnover is in excess of a particular sum)*

13.22 1985 Companies Act

(some sports clubs are registered as companies limited by guarantee under the 1985 or earlier Companies Acts to obtain a separate legal identity and limit liability. Most Scottish League football clubs are registered under the Companies Acts as companies limited by shares)*

13.23 1988 - Income and Corporation Taxes Act

(provides the general rules for the bringing into charge to tax of the earnings of professional sportsmen as also the assessment of profits or a sporting trade or profession, the taxation of salaries, signing on fees and the like and provides also for the allowing of relief for expenses. The same Act enables the organisers of sporting events to supply prizes to non-resident tax payers unable to make an appropriate declaration under deduction of tax. This also brings into the charge to tax income earned from the provision of facilities or services to or by non-members to amateur sports clubs)*

13.24 1989 - The Children Act

(gave local authorities power to make regulations as to how those looking after young children (under the age of 8) may require to register as being acceptable to the local authority. This could affect some sports classes as the enabling legislation stands at the moment)*

13.25 1994 - The Local Government Etc (Scotland) Act

(comprehensively reorganised local government in Scotland for the second time since 1930 bringing about 32 new local government areas. These Councils which take over all the local authority functions carried out within their areas subject to certain provisions by means of what are called Joint Boards, for instance for police and fire services in some areas, now carry out the responsibilities previously vested in the regional and district councils under the 1975 Act)

SECTION 4: FUNDING

14 Funding at national level

14.1 Funding at national level - central government

Through the Department for Culture, Media and Sport approximately £11.8million per annum is allocated to the UK Sports Council and £33.7million to the English Sports Council; £9.8 million is allocated to the Scottish Sports Council through the Scottish Office; £6.6 million to the Welsh Sports Council through the Welsh Office and £2.7 million to the Sports Council of Northern Ireland through the Department of Education for Northern Ireland. This constitutes the only significant annual expenditure by the government on sport, although there may occasionally be one off contributions, e.g grants to an Olympic bidding city.

Sportsmatch - a government initiative matching commercial sponsorship on a £ for £ basis. Funding available is about £3.2million per annum.

14.2 Funding at national level - Sports Councils

The Councils undertake development work and distribute funds, firstly, from the lottery (see para. 14.5) and, secondly Treasury funds in accordance with strategic objectives. There is a small expenditure on policy development, research, information, publications and other central functions. See also paragraph 15.2 on funding from the English Sports Council for programmes delivered primarily at regional level.

14.3 Funding at national level - voluntary sector

Governing bodies of sport and other membership organisations depend upon membership subscriptions for a significant part of their income. Other sources of funding may include the Sports Councils, sponsorship and TV contracts (particularly for events and national teams), product endorsements and income derived from specialist services such as publications and award schemes.

14.4 Funding at national level - Foundation for Sport and the Arts

Established in 1991 through a reduction in the football pools betting duty with an annual contribution from the pools promoters, the Foundation provides funds for sports projects. At its peak approximately £40 million was made available to sport per annum. The amount has been reduced to less than half this figure and is continuing to decrease. The reduction may be due to the impact of the national lottery which has provided competition for the football pools.

14.5 Funding at national level - UK National Lottery

Launched for the first time in 1994, in the region of £300 million per annum is now flowing through to sport across the UK. The four home country Sports Councils have been given responsibility for the distribution of this income. This represents a very large increase in the funding available to sport and is enabling the development of new and refurbished facilities at local and national levels. Whilst initially the lottery was established for capital projects, grants are now made in support of elite athletes and major events and to projects for young people and sport.

The first grants were offered in March 1995 and over the first two years the following sums had been distributed.

Sports Council (English Sports Council from 1 January 1997)	£443million
Scottish Sports Council	£ 47million
Sports Council for Wales	£ 27million
Sports Council for Northern Ireland	£ 15million

15 Funding at regional level

15.1 Funding at regional level - local authorities

Expenditure on sport and recreation in the UK, excluding education, runs at almost £1.4 billion per annum. About one third of this cash is allocated to capital projects, the rest is revenue expenditure.

15.2 Funding at regional level - English Sports Council

Approximately £18.5 million is allocated for programmes to deliver the key principles of the English Sports Council (more people, more places, more medals). This grant from government is used, for example, through national governing bodies to support grass roots programmes and for work with local authorities.

SECTION 5 : LEGAL ISSUES

16 As the amount of time, money and expertise expended by athletes, coaches, administrators and sponsors increases, it is not surprising that areas of potential conflict increase. The law has always been available to deal with many of these areas of conflict, but in the past it was perhaps traditional reticence more than anything else which prevented them from being elevated into open legal disputes. Increasing professionalism and media coverage mean that many of the these issues are now aired in public even though most disputes involving clubs, associations, members and competitors are still dealt with internally because those concerned

set their own rules and have, by and large, lived by those rules for better or worse. The Courts have traditionally refrained from adjudicating on disputes between those parties and have only become involved if the powers exercised by those in control were exceeded. The Courts are naturally reluctant to be involved on the basis that the expertise is supposed to lie with the governing body. Despite increasing attempts to do so, the Courts continue to resist requests for "Judicial Review" - the process created to enable the Courts to exercise a supervisory jurisdiction over organisations with quasi-judicial powers. However, certain judges have expressed opinions that there may be circumstances in which some decisions are of public concern and susceptible to judicial review.

Since the 1970s this state of affairs has been increasingly threatened for two reasons. Firstly, ever increasing legislation is imposing more stringent requirements on the way clubs and associations conduct their affairs and, secondly, professional athletes are now more likely to become embroiled in disputes with those bodies in ways which hitherto did not exist. Thus the terms "sports law" and "sports lawyers" have come into common parlance notwithstanding that the law is by and large of universal application.

This section highlights when the existing legal framework is, and can be, used whilst at the same time identifying potential areas of conflict.

17 General application of the law

As a general rule (except between themselves where there has been an abuse of power) clubs, associations and their members have always been subject to the laws of England & Wales, be it the Common Law or enactments of both Parliament and the European Community. The following are branches of the law that can be applied to resolve disputes or control the conduct of sports bodies and individuals, with examples of their application:

17.1 Law of Contract - sponsorship agreements.
17.2 Law of Tort - negligence (personal injuries) and nuisance.
17.3 Law of Defamation - slander or libel.
17.4 Employment Law - unfair dismissal, restraint of trade.
17.5 Taxation - VAT.
17.6 Charity Law - tax exemptions and eligibility for charitable status.
17.7 Criminal Law - assault.
17.8 Intellectual Property Law - licensing, copyright, patents, broadcasting rights.
17.9 Health and Safety Legislation.

18 Specific application of legislation to sport

Refer to section 3 paragraph 11 on page 6 for the topical key examples of new legislation affecting sport and to the Appendices for a comprehensive list of legislation both current and historical.

19 Potential areas of conflict

The following are examples of current issues within sport which are testing the existing legal framework, under which sport regulates itself or is regulated by others.

19.1 Definition - What is a sport?

There is no legal definition of sport in English Law. The Law Commission, in a recent paper on the issue of criminal liability for injury sustained in a recognised sport, has raised the question of how sport is to be defined. It has concluded, for instance, that there is a difference between traditional boxing and certain martial arts activities, which may preclude the latter from being recognised as a sport. The Law Commission is currently undertaking a consultation process which can be expected to have important consequences on the way in which injuries sustained in an activity may, or may not, be criminal assault depending on whether the activity is a recognised sport. The Law Commission is not alone in grappling with a suitable definition. The Sports Councils undertake a process of recognition of activities for the purposes of offering grant-aid and services. A not inconsiderable problem. National Lottery sports funds may only be distributed to those activities so recognised.

19.2 Anti-doping

Of all the issues facing sport at the present time, anti-doping is perhaps the most important and potentially the most complex. Apart from the problems of detection in the first place, the drug testing procedures must be carried out to the highest scientific standard and in accordance with a consistent set of guidelines. At the moment the guidelines are often set by individual sporting bodies and contain inconsistencies.

In dealing with subsequent appeals, it must surely be the case that, with the power to ban athletes and possibly end lucrative careers, the Court or tribunal must adopt procedures which are beyond reproach. Furthermore, the recent IAAF decision that individual national governing bodies could chose to impose any length of ban that it wished, subject to a two year minimum will not help - the BAF favours four years the Germans two.

Athlete, Diane Modahl was found guilty by the British Athletics Federation in December 1994 of a doping offence, following an irregularity of her sample analysed in Lisbon in June 1994. She was acquitted by BAF on appeal in July 1995, after which her case was referred by the IAAF to its arbitration panel.

The Modahl case is a milestone for several reasons. Firstly the appeal tribunal overruled the initial decision imposing the ban because it did not feel that it could be said beyond reasonable doubt that Modahl had taken performance enhancing drugs. Thus, in dealing with such appeals, tribunals have come to adopt procedures and rules of evidence similar to those exercised in the criminal Courts. Secondly, Modahl has issued proceedings against the British Athletic Federation for damages resulting from her successful but expensive fight to overturn her ban. The BAF unsuccessfully attempted to have Modahl's action struck out and it therefore proceeds to a full trial.

19.3 Disciplinary procedures

Similarly, where the livelihood of athletes is concerned, it will be increasingly important to ensure that bans and other punishments imposed by relevant sporting bodies are consistent with each other. Both anti-doping and disciplinary standards increasingly require co-operation across international boundaries to ensure effective compliance as well as consistency and fairness. The current lack of harmonisation in dealing with these issues both domestically and internationally will inevitably led to disputes and the increasing involvement of lawyers and expert witnesses. The different bans imposed by individual countries referred to in Section 18.2 has led to the recent decision in Edwards -v- BAF where an athlete contested that the imposition of a four year ban was discriminatory because some EU countries imposed only two year bans. The courts upheld the view that four years was reasonable and justifiable to protect the sport.

The case of Duncan Ferguson referred to in paragraph 19.5 also illustrates the differences in approach.

19.4 Restraint of Trade and Status

The prevention of the professional athlete from plying his or her "trade" is, and will increasingly become, a litigious matter. We have already seen the following examples:

19.4.1 the celebrated case of Jean-Marc Bosman, a Belgian footballer, which decided that a footballer out of contract is now allowed to move between clubs in different EC member countries without the club previously holding the player's registration being able to demand a transfer fee. We have yet to see the real impact of this decision in the UK.

19.4.2 the removal, also as a result of the Bosman case, of restrictions on the number of foreign players who can compete in domestic and European football competitions.

19.4.3 Butch Reynolds - the American athlete who appealed against the IAAF's two year ban for an alleged doping offence and claimed damages in the American courts.

19.4.4 the US baseball players' strike was an attempt to restore a collective bargaining agreement.

19.4.5 the action brought by Christelle Deliége in the European Court of Justice against the Belgian judo authorities to ascertain whether, or not, it is contrary to the Treaty of Rome for those authorities to have the right to authorise (and thus prevent) professional or semi-professional athletes from entering international competitions.

19.4.6 The action brought by the Ebbw Vale rugby player Mark Jones against the Welsh Rugby Union. Jones was suspended for four weeks after being sent off. Although the disciplinary hearing had followed a well established procedure Jones and Ebbw Vale contested the decision by issuing proceedings for breach of contract and not Judicial Review. Whilst there are several issues raised by this case the most significant is that the Court rejected WRU's argument that its procedures had been voluntarily accepted in the past and that the introduction of professionals did not warrant any alteration of these procedures.

All these cases illustrate the growing analysis of the status of athletes in society. The Olympic ideal of the "amateur" participating for glory and not financial gain is now largely illusory. Many athletes are perceived to be entertainers and even if not directly paid to participate can expect to receive rewards indirectly, according to performance and marketability. More employer/employee relationships are being created and increasingly athletes will argue that the rules of governing bodies, and event organisers, conflict with the normal employment laws which govern the rest of society.

Many sports still operate on an amateur basis. How long can this continue and what will be the ramifications when the sports concerned are open to all?

19.5 Violence

Violence in sport was once mainly a question of public order i.e. crowd control at football matches, but since the 1960s the vexed question of "consent" in physical contact sports has increasingly raised its head in more and more dramatic circumstances. Previously, where there was excessive use of force, governing bodies would deal with such infringements within the rules of the relevant sport.

There are now numerous cases both at amateur and professional level, where the use of excessive force has taken the act out of the hands of governing bodies and into those of the civil and criminal Courts. The problem of consistency in how governing bodies and the Courts deal with these matters will increasingly be called into question. The Duncan Ferguson case is a classic example. When playing football for Glasgow Rangers, Ferguson assaulted another player but none of the match officials took any action. Subsequently, the incident was reported to the Procurator Fiscal in Scotland and criminal proceedings instigated. Ferguson was convicted and imprisoned. The Scottish Football Association then banned Ferguson for twelve games, a decision which Ferguson successfully appealed in the Scottish Courts on the basis that the SFA's decision was "ultra vires" in that it imposed an additional penalty, when no original penalty had been imposed. Although a decision of the Scottish Courts, this is the sort of case in which the English Courts might, in the future, consider using the Judicial Review process to review the actions of a governing body.

The question of discipline will also impact on the problem of restraint of trade for professional athletes. If the Courts can deprive a driver of his, or her, livelihood by banning them from driving, why should the Courts not ban a professional athlete from his, or her, sport for persistent violent conduct if the relevant governing body has been unable or reluctant to take effective action?

19.6 Personal Injury

In the same way that violent behaviour is no longer the remit exclusively of governing bodies to administer, injuries sustained as a result of such behaviour are now being dealt with by the Courts. Even though the footballer, Paul Elliott, failed to prove loss as a result of Dean Saunder's tackle, the fact remains that violent or reckless behaviour may deprive an athlete of his, or her, livelihood. That being the case, there will no doubt be increasing attempts to prove that the claimant has suffered loss as a result of a deliberate or reckless act which goes beyond the normal bounds of acceptability, in a physical contact sport, and as a result has caused loss to the injured party.

These attempts to prove loss will be driven as much by the aggrieved party as by insurance companies endeavouring to recoup what will be increasingly large pay outs to professional sportsmen. 'No fault' insurance may alleviate this problem and avoid the heavy legal costs in such disputes.

In addition, since most sports carry the risk of injury there is likely to be an increase in claims for personal injuries sustained in leisure and sports facilities, or other places, where expertise and supervision falls below an acceptable standard. Whilst this is not a new area of conflict between law and the sport, it nevertheless reflects a growing trend in society to apportion blame - or put in legal parlance who owes who a "duty of care"?

The concept of owing a duty of care is illustrated by the following recent cases.

19.6.1 "Smolden" - where a rugby referee was found responsible for injuries sustained by a rugby player as a result of the repeated collapsing of the scrum

19.6.2 "Lyme Bay" - where a company organising off-shore canoeing trips was guilty of ignoring safety checks resulting in several participants being drowned. One of the company's directors was also found guilty of manslaughter.

19.6.3 "Farrant -v- Thames District Council" - where the council was found to have been negligent in the operation of a beach tidal pool. Farrant a 16-year-old suffered permanent tetraplegia as a result of diving into the pool

19.6.4 "Tyrrell" - a disgruntled Leicester City supporter outraged by the referee's decision to award Chelsea a match winning penalty in the dying minutes of a fifth round replay of the FA Cup issued proceedings against the Football Association Ltd claiming damages. Tyrrell's loss was based on the shock of the referee's alleged negligent decision resulting in him being off work. The idea that a referee owes a duty of care to a spectator was firmly rejected.

19.6.5 "McCord -v- Swansea City AFC Ltd" - McCord, a former Stockport County player, was awarded damages in the region of £250,000 following an action against Swansea and one of its players for injuries sustained in a match. This is thought to be the first such award arising from litigation between professional Football League players.

19.7 Crime

As previously mentioned under paragraphs 19.1 and 19.5 the courts have been examining for some time the point at which physical violence ceases to be part of a sport and becomes a criminal act. Similarly there are other areas in which the distinction between "bringing the game/sport into disrepute" and a criminal act is becoming increasingly blurred. There have, for instance, been a number of enquiries recently into irregular payments made to athletes in breach of the rules of the relevant governing body. These payments may, in a wider context, have more serious implications than merely a breach of internal rules. Furthermore, alleged international match rigging in football has given rise to criminal prosecutions.

The Dunblane tragedy is a reminder to society that the actions of an individual can have horrendous consequences and ultimately restrict the lawful activity of others. It is not for this paper to comment on such an appalling tragedy - merely its effect on sport. Refer to Appendix A Paragraph 1.1 for details of the Firearms (Amendment) Act 1997 implemented as a direct consequence of the Dunblane tragedy.

The Lyme Bay case referred to in paragraph 19.6.2 illustrates that the failure to exercise a proper duty of care can result in criminal proceedings and not merely civil proceedings for negligence.

19.8 Intellectual Property, Marketing and the Media

This area of the law is already well developed to deal with the ownership for instance of the name of a famous club, or event, or logo or other design or idea. What is becoming more challenging is the protection of various rights in the electronic age - it has never been easier to copy or transmit other people's property. The marketing of ideas, products and events across international boundaries is another potential area of dispute which, like anti-doping and disciplinary matters, would benefit from the harmonisation of rules and regulations.

However, perhaps the most significant impact on sport in the 1990s is the incursion of satellite and cable TV into the televising of major sporting events. This has been attended by huge amounts of new revenue being generated, particularly for the benefit of football and rugby. Both sports are undergoing change as the balance of power shifts from the traditional power bases to new economic power bases as the additional revenues filter down. The new digital technology will soon see a proliferation of channels, which is likely to herald an even greater communications revolution enabling sporting associations, clubs or event owners to have their own channels, and potentially generating new conflicts as to who owns the right to televise sport in the 21st century.

19.9 Tax

As a result of VAT Notice 701/45/94 many sports clubs have received considerable rebates of VAT payments levied by Customs & Excise in breach of EC Directives. The ownership of some of these rebates is not always clear - do they belong to the club or its members?

The advantages to the sports club of charitable status are considerable. Charities are entitled to a more generous tax regime, can obtain rate relief and enjoy privileges in raising funds by way of raffles and lotteries. However, it was established 100 years ago in the case of Re: Nottage that a typical amateur single game sports club was not eligible for charitable status - unlike a multi-sports club. The North Tawton Rugby Football Club has been endeavouring to test this long established precedent, although to date its application for charitable status had been rejected by the Charity Commission and opposed by the Inland Revenue. It was hoped that this decision would have been tested in a higher Court and ultimately in the House of Lords. Unfortunately North Tawton R.F.C. did not *to* proceed with an appeal so that another champion will have to emerge to resolve what many feel is an important area of the law in need of clarification.

19.10 Racism

The Football Offences Act 1991 made it an offence to chant in an indecent and racist manner. At the start of the 1993/94 season the Commission for Racial Equality and the Professional Footballers Association launched a campaign to combat racist chanting during matches and racism generally within the game. At a time when more and more footballers in the league are black such legislation and initiatives are welcome signs that something is being done. Whether, or not, legislation can effectively eradicate such a problem is open to debate but clearly entrenched attitudes and behaviour have to change.

19.11 Public Health and Safety

In an increasingly regulated society health and safety issues are never far away. Whether it is the design and construction of a major sports facility or the provision of safety standards at the village gymkhana, there are now a plethora of rules and regulations designed to safeguard competitors and spectators alike. These are not all imposed by statutory bodies. Stevenage Borough Football Club recently fell foul of the Football League's criteria relating to sports ground conditions. Although gaining promotion to the League, Stevenage was unable to satisfy those criteria in time and, despite challenging the League's decision in the Courts failed to overcome the League's ruling.

The Hillsborough Football Stadium disaster of 1989 where 96 people died mainly from crush asphyxia and 730 were injured sadly illustrates that it is sometimes difficult to identify one single factor which leads to a disaster. It may be triggered by a relatively innocent event. It is therefore increasingly important for event organisers and those responsible for sports facilities to undertake "risk assessment" analysis to identify weaknesses in systems and controls.

19.12 Who Decides? - The Case for Arbitration.

At the Atlanta Olympics competitors were required to submit to the ruling of the Court of Arbitration for Sport (CAS) on any dispute. The IOC, all National Olympic Committees and International Sports Federations in the Olympic programme all agreed that during the Games the CAS procedure would provide a fast, fair and free resolution to disputes. Notwithstanding this, the IOC conceded that athletes would "not be deprived of their inalienable right to have recourse to ordinary Courts". However, the fact that the Olympic disputes were to be determined by three independent arbitrators on the spot, whose determination was to be made within 24 hours of the dispute being notified made it unlikely that its decisions would be questioned by an athlete referring the matter to a national Court. However the Olympic Games only last two weeks. Outside the Olympic Games the possibility of arbitration, or other independent dispute resolution, is gaining ground in sport and, indeed, in other areas of the law. The possibility of saving time and money in submitting to arbitration is considerable and the ability to implement such procedures across international boundaries is likely to be more fruitful than standardising national legal procedures.

There are ongoing discussions in the UK at the present time to create a British Sports Arbitration Panel to provide a similar service to that provided by the International Court for Sports Arbitration based in Switzerland.

20 CONCLUSIONS

It can be seen that sport is undergoing considerable change. The challenge ahead is formidable. Between them, sporting bodies, the law, other agencies and their respective officers have to resolve complex conflicts involving individuals whilst endeavouring to preserve the ideals, traditions and rules of many different sports.

STATUTES

1. **1997**

1.1. Firearms (Amendment) Act

This Act amends the Firearm Acts 1968 to 1992, prohibiting all handguns above .22 calibre, with those of a lower calibre having to be kept at registered gun clubs. To have a small calibre pistol outside a licensed club will be an offence. Special permits must be obtained from the Police if handguns are to be removed from clubs. There are designated Police Stations for the handing in of prohibited handguns and ammunition. Handgun owners and dealers who surrender prohibited handguns, ammunition or equipment on or before the due date will receive compensation. The Act provides for the licensing of pistol clubs and for their regulation.

1.2. Horserace Totalisator Board Act 1997

The Horserace Totaliser and Betting Levy Boards Act 1972, S1, is amended by this Act, conferring powers on the Horserace Totalisator Board to receive or negotiate bets made otherwise than by way of pool betting.

2. **1996** No statutes of relevance to sport were enacted this year.

3. **1995**

3.1. Olympic Symbol Etc (Protection) Act 1995

This Act protects the Olympic symbol (ie the symbol of the International Olympic Committee consisting of five interlocking rings) and the Olympic words (the motto of the IOC "citius altius fortius"), from unauthorised commercial exploitation. The Act enables the Secretary of State to grant the British Olympic Association an exclusive licence to exploit the Olympic symbols commercially and thereby safeguard the BOA's main sources of income, which are commercial exploitation of the Olympic symbol and Olympics related sponsorship.

3.2. Activity Centres (Young Persons Safety) Act 1995

This Act provides for the regulation of centres and providers of facilities where children and young persons under the age of 18 engage in adventure activities, including provision for the imposition of safety requirements.

4. **1994**

4.1. Value Added Tax (Sport, Physical Education and Fund Raising Events) Order 1994

Schedule 9 - This lists the exempt supply of goods and services and includes (at Group 10):

(a) the grant of a right to enter a competition in sport or physical recreation where the consideration for the grant consists of money which is to be allocated wholly towards the provision of a prize or prizes awarded in that competition.

(b) the grant, by a non-profit making body established for the purposes of sport or physical recreation, of a right to enter a competition in such an activity.

(c) the supply by a non-profit making body to an individual, except where the body operates a membership scheme, an individual who is not a member, of services closely linked with and essential to sport or physical eduction in which the individual is taking part.

5. **1993**

5.1. National Lottery etc. Act 1993

Section 22 - 20% of the balance shall be allocated for expenditure on or connected with sport.

Section 23 - The money in the distribution fund which is allocated for expenditure on or connected with sport shall be held.

(a) as to 83.3% for distribution by the Sports Council;

(b) as to 8.9% by the Scottish Sports Councils;

(c) as to 5% by the Sports Council for Wales; and

(d) as to 2.8% by the Sports Council for Northern Ireland.

6. **1992**

6.1. Firearms (Amendment) Act 1992

This Act amends the Firearms (Amendment) Act 1988 and the Firearms Act 1968 (Section 26), by giving the Secretary of State power to extend the period for which firearm and shotgun certificates are granted or renewed.

7. **1991**

7.1. Water Resources Act 1991

Section 184 - outlines duties to make recreational facilities available when building reservoirs in Wales.

7.2. Water Industry Act 1991

Section 191 - this is the same as the Water Resources Act 1991.

7.3. Finance Act 1991

Section 121 - reduction in pools betting levy to finance Football Trust and Foundation for Sports and the Arts in association with Football Pools Companies.

7.4. Football Offences (Act 1991)

This makes further provision with respect to disorderly conduct by persons attending football matches (e.g. throwing missiles, indecent or racialist chanting, going onto the playing area).

8. **1990**

8.1. Food Safety Act 1990

This Act shall apply in relation to any food which is offered as a prize or reward or given away in connection with any entertainment to which the public are admitted. "Entertainment" includes any game or sport. The Act states that the food must comply with food safety requirements.

8.2. Capital Allowances Act 1990

Section 70 - provides that expenditure on safety at sports grounds is to be treated as a capital allowance.

9. **1989**

9.1. Football Spectators Act 1989

This Act controls the admission of spectators at designated football matches in England and Wales by means of a national membership scheme and licences to admit spectators; provides for the safety of spectators at such matches by means of such licences; provides for the making and enforcement of Orders by courts imposing restrictions on persons convicted of certain offences for the purpose of preventing violence or disorder at football matches played outside England and Wales.

10. **1988**

10.1. Copyright, Designs and Patents Act 1988

Section 67 - it is not an infringement of the copyright in a sound recording to be played as part of the activities of a club, society or other organisation if two conditions are met. The conditions are:-

> that the organisation is not established for profit and its main objects are charitable or otherwise concerned with the advancement of education or social welfare; and
>
> that the proceeds of any charge for admission are applied solely for the purposes of the organisation.

10.2. Firearms (Amendment) Act 1988

This Act amends the Firearms Act 1968 and makes further provision for regulating the possession of, and transactions relating to, firearms and ammunition.

10.3. Income and Corporation Taxes Act 1988

Section 29 - outlines circumstances where a person in possession of land who is in the practice of granting sporting rights over the land for payment may make deductions from receipts for income tax purposes.

Section 555 - deals with income tax payments by a sportsman who is performing a sporting activity outside the UK when he is resident for tax purposes in the UK in the year of tax assessment.

11. 1987

11.1. Fire Safety and Safety of Places of Sport Act 1987

This Act amends the Fire Precautions Act 1971 and other enactments relating to fire precautions; it amends the safety of Sports Grounds Act 1975 and makes like provisions as respects stands at sport grounds and indoor sports premises.

11.2. Crossbows Act 1987

This Act creates offences relating to the sale and letting on hire of crossbows, to and by, persons under the age of 17.

12. 1986

12.1. Public Order Act 1986

This Act abolishes the common law offences of riot, unlawful assembly and affray and certain statutory offences relating to public order; it creates new offences relating to public order to control the stirring up of racial hatred; it provides for the exclusion of certain offenders from sporting events and confers power to direct certain trespasses to leave land; it also amends the Sporting Events (Control of Alcohol etc.) Act 1985.

13. 1985

13.1. Housing Act 1985

This Act provides that a local housing authority may provide or maintain recreation grounds in connection with housing accommodation and in so far as a compulsory purchase order authorises the purchase of land forming part of a common or open space, the order shall be subject to special parliamentary procedure.

13.2. Transport Act 1985

This Act provides for permits in relation to the use of buses by bodies concerned with recreation or other activities to benefit the community.

13.3. Sporting Events (Control of Alcohol etc.) Act 1985

This Act makes provision for punishing those who cause or permit alcohol to be carried on coaches and trains taking passengers to or from designated sporting events and those who possess alcohol or certain articles capable of causing injury at designated sports grounds during the period of designated sporting events; for punishing drunkenness on such vehicles and makes provision for regulating the sale or supply of alcohol during the period of designated sporting events at such grounds.

13.4. Local Government Act 1985

This Act abolished the Greater London Council and the Metropolitan County Councils and transferred their functions to local authorities and also provided a scheme for the making of grants to eligible voluntary organisations. A voluntary organisation is a body, the activities of which are carried on otherwise than for a profit.

14. **1984**

14.1. Public Health (Control of Disease) Act 1984

This Act relates to the control of disease and provides that a local authority may prohibit or restrict the admission of children to, amongst other things, any sports ground or outdoor swimming pool.

15. **1981**

15.1 Acquisition of Land Act 1981

States that in so far as a Compulsory Purchase Order authorises the purchase of any land forming part of a common or open space, the Order shall be subject to special parliamentary procedure.

16. **1979**

16.1. Customs and Excise Duties (General Release) Act 1979

Provides for relief from Customs or Excise duty on articles to have been awarded abroad to any person for distinction in, amongst other things, sport.

17. **1976**

17.1. Race Relations Act 1976

It is unlawful for any person concerned with the provision of facilities (e.g. for recreation) to discriminate against a person who seeks to use those facilities. It is not, however, unlawful to discriminate against another on the basis of nationality, place of birth or length of time for which he has been resident in a particular area if the act is done in selecting one or more persons to represent a country, place or area in any sport of game, or in pursuant of the rules of any competition so far as they relate to eligibility to compete in any sport or game.

17.2. The Local Government (Miscellaneous Provisions) Act 1976

This Act gives a local authority powers to provide such recreational facilities as it thinks fit, for example, in sport centres, swimming pools, tennis courts, outdoor pitches for team games and athletic grounds.

18. **1975**

18.1. Sex Discrimination Act 1975

It is unlawful for any person concerned with the provision of facilities (e.g. for recreation) to discriminate against a woman who seeks to obtain the use of those facilities. However, it is not unlawful to discriminate in relation to any sport or activity where the physical strength, stamina or physique of the average woman puts her at a disadvantage and which are, therefore, confined to competitors of one sex.

18.2. Safety of Sports Grounds Act 1975

This Act makes provisions for safety at sports stadia and other sports grounds.

19. **1973**

19.1. Water Act 1973

Makes general provisions as to recreation and amenity in connection with water.

20. **1971**

20.1. Fire Precautions Act 1971

An Act to make further provision for the protection of persons from fire risks.

21. **1970**

21.1 Chronically Sick and Disabled Persons Act 1970

This makes provisions for access to, and facilities at, premises visited by the disabled.

22. **1968**

22.1. Countryside Act 1968

This Act supplements the National Parks and access to the Countryside Act 1949. It renamed The National Parks Commission "The Countryside Commission", and gave it enlarged powers to conserve and enhance areas the natural beauty and the amenity of the countryside, to encourage open air recreation and to improve facilities accordingly. The Commission must review the facilities provided for the enjoyment of the countryside, secure the conservation and enhancement of protected areas, and secure public access for open air recreation. (Section 2).

Section 7-13 - allow local authorities to designate areas as country parks and provide facilities, including facilities for sailing, boating, bathing and fishing on its land or adjoining sea, there are similar powers for common land and National Parks.

Section 22 - statutory water authorities may set apart land for recreation and regulated appropriately, including being able to charge for the use of such facilities.

22.2. Firearms Act 1968

Section 11 - this provides exceptions to the requirement for a firearms certificate or licence which are therefore exempt from criminal sanction, including carrying a firearm under instruction for the use of another who has an appropriate sporting licence, starting guns, miniature rifles not exceeding .23 calibre or air weapons on appropriate ranges or shooting galleries, and the borrowing and use of shotguns on private premises in the owner's presence, and non-live targets shooting with a shotgun at appropriate sites.

23. **1967**

23.1. Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967

Section 7 - a local authority may in any open space provide and maintain swimming baths and bathing places, golf courses, courts and all open air facilities for any form of recreation, gymnasia, rifle ranges, indoor facilities and centres for any form of recreation, social or educational means and provide and maintain appropriate facilities thereto. There are exceptions for forms of entertainment which require specific licences.

Section 12 - restricts the power of the local authority to provide facilities listed in Section 7 on commons (permission is required from a Minister).

Section 13 - a local authority may alone or in co-operation with any other body organise competitions and give trophies and prizes, charging as appropriate.

24. **1963**

24.1. London Government Act 1963

Section 52 and Schedule 12 - provide conditions for licensing of public entertainments in Greater London on or after 1st April 1965, including music and dancing licences, boxing and wrestling licences (other than at certain excepted places, and by travelling showmen, boy scouts or at school).

25. **1961**

25.1. Public Health Act 1961

Section 52 - see commentary to Public Health Acts Amendment Act 1907.

Section 53 - a local authority may close parks and pleasure grounds to allow the use of a show or other special purposes for up to six consecutive days (excluding Sunday) except on public holidays where a restricted area may be closed.

Section 54 - a local authority or parish council may provide boating pools, and erect appropriate buildings, and such authority has wide powers to manage or sublet the management of such premises.

26. **1959**

26.1. Town and Country Planning Act 1959

Sections 23 and 26 - the acquisition of open space needs appropriate notice and advertisement.

27. **1958**

27.1. City of London (Various Powers) Act 1958

Section 9 - The City of London Corporation cannot sell a recreation ground or open space for, or dedicated for, the use of the public if this would lead to a breach of trust, covenant or agreement binding upon the Corporation.

Section 56 - The County Council may make any contribution to the parish council in connection with the administration of public open spaces.

27.2. Recreational Charities Act 1958

The Act established the principle that it shall be, and be deemed always to have been, a charitable purpose to provide or assist in the provision of facilities for recreation or other leisure time occupations if the facilities are provided in the interest of social welfare and for the public benefit. The facilities must improve the conditions of life for persons for whom the facilities were primarily intended.

28. **1957**

28.1. Parish Councils Act 1957

Every parish council is deemed to be a local authority for the purposes of the Open Spaces Act 1906.

29. **1949**

29.1. National Parks and Access to the Countryside Act 1949

The Act makes provisions for the creation of National Parks and the establishment of a National Parks Commission (now known as The Countryside Commission). Its aim is to confer on the Nature Conservancy Commission and local authorities power to establish and maintain nature reserves, and to maintain and improve public paths for securing access to open countryside, to confer powers for preserving and enhancing the natural beauty of the land. It has particular responsibility for areas designated as National Parks or areas of outstanding natural beauty, and to encourage the provision or improvement of facilities for enjoyment thereof and for the enjoyment of open air recreation and nature study. Duties are imposed in the Act to assist planning authorities to secure such access, provides local authorities with compulsory acquisition powers to allow the purchase of land for access.

29.2. Coast Protection Act 1949

This gives power to relevant authorities to use land acquired for coast protection for incidental purposes (for example, recreation grounds).

30. **1945**

30.1. The Requisitioned Land and War Works Act 1945

Sections 53 and 59 - give power for a Minister to acquire land under the Defence Acts by way of exchange. If the land is open space or common land, the powers are extended to allow for the purchase of the land other than by way of exchange.

31. **1944**

31.1. The Education Act 1944

Section 53 - it shall be the duty of every local education authority to secure that the facilities for primary, secondary and further education provided for their area include adequate facilities for recreation and social and physical training, and for that purpose a local education authority may establish, maintain and manage or so assist in those tasks, camps, holiday classes, playing fields, play centres and other places including playgrounds, gymnasiums and swimming baths so that those places are available for recreation and training for persons receiving primary, secondary and further education. The local education authority may organise games, expeditions and other activities for such persons and may defray or contribute towards the expenses. The local education authority must also have regard to the expediency of co-operation with voluntary societies or other bodies whose objects include provision of facilities or the organisation of similar activities.

32. **1939**

32.1. National Trust Act 1939

Section 3 - provides power for holders of settled land to grant to the National Trust various amenity lands (including sports land)

33. **1938**

33.1. Green Belt (London and Home Counties) Act 1938

The Act is expressly worded so that nothing in the Act will prevent green belt land being used for recreation, agriculture or camping.

34. 1937

34.1. Physical Training and Recreation Act 1937

The Act provides for the development of facilities for, and the encouragement of, physical training and recreation, and the facilitation the establishment of centres for social activities.

Section 3 - the Board of Education may make grants towards the expenses of a local or voluntary organisation in providing physical training or recreation facilities or the supply of teachers and leaders for such activities.

Section 7 - establishes a National College of Physical Training for England and Wales.

35. 1936

35.1. Public Health Act 1936

Section 225 - a local authority may close temporarily to the public any swimming bath or bathing place under their management and grant exclusive use to a school or club or for the purposes of competition, and may make appropriate charges. These baths and bathing places may be closed and adapted to allow for other use by way of bye-law except for certain activities which require a licence.

36. 1926

36.1. Parks Regulation (Amendment) Act 1926

The Act applies to all parks, gardens, recreation grounds, open spaces and other land for the time being vested in or under the control or management of the Commissioners for Works.

37. 1925

37.1. Public Health Act 1925

Section 56 - where any part of a park or ground is set aside by a local authority for cricket, football or any other sport, the local authority may charge reasonable sums for the use of those facilities.

38. 1919

38.1. Land Settlement (Facilities) Act 1919

Section 28 - this Section preserves commons and open spaces which may not be acquired for the purposes of small holdings or allotments.

39. 1907

39.1. Public Health Acts Amendment Act 1907

Part IV - relates to recreation grounds (Sections 76 and 77). Local authorities may (in addition to other statutory powers) enclose parts of park ground for skating, set apart grounds for cricket and football or other games and exclude the public from those parts while this is in use for those purposes, and provide apparatus for games and recreations and charge for the use of those. In this regard they may place seats and benches in parks, and maintain appropriate buildings, including refreshment areas. The Public Health Act 1961 extends this to allow clubs the exclusive use of land and premises.

40. 1907

40.1. National Trust Act 1907

Section 30 - National Trust may make reasonable charges for playing of games, sailing, boating, bathing, fishing and other forms of recreation on its land and waterways.

41. 1906

41.1. Open Spaces Act 1906

The Act consolidates previous enactments relating to open spaces. Trustees under local Acts may transfer open space to local authorities for the better enjoyment by the public of such land, similar sections allow charity trustees, burial ground owners, corporations, etc. to transfer land also.

Section 10 - Local authorities may hold and administer the open space to allow enjoyment by the public and keep the land enclosed with proper railings, etc.

42. 1899

42.1. Commons Act 1899

The Act amended the Inclosure Acts and the law relating to commons and open spaces. Councils of urban districts may make schemes for regulation and management of common land. Provisions with respect to allotments for recreation grounds, etc relating to enclosure may be dealt with by Charity Commission Schemes.

43. 1876

43.1. Commons Act 1876

The Act facilitated the regulation and improvement of commons.

Part 2 - this amended the Inclosure Acts to allow easier allocation of land for recreation.

44. **1875**

44.1. Public Health Act 1875

Section 164 - an urban authority may purchase or take on lease layout plant, improve or maintain lands for the purposes of being used as public walks or pleasure grounds, and may support or contribute to the support of such areas, and also make bye-laws for their regulation.

45. **1857**

45.1. Inclosure Act 1857

Section 12 - sets out proceedings for prevention of nuisances (including fouling of land) and land reserved for recreation.

46. **1846**

46.1. Inclosure Act 1846

Section 4 - where allotments for exercise and recreation or for other public purposes shall have been made the condition of provisional orders, the Commissioners may reserve a similar sized piece of land to the land being enclosed for such purposes. Later Acts allowed land of equal value to be appropriated.

47. **1845**

47.1. Inclosure Act 1845

This appears to be the first Inclosure Act at national level. Prior to this, enclosure was carried out by local Acts. The Inclosure Acts are now little used.

APPENDIX B

STATUTORY INSTRUMENTS

1. **1997**

1.1. Safety of Sports Grounds (Designation) Order 1997

This Order designates specified sports grounds as requiring a safety certificate under the Safety of Sports Grounds Act 1975.

1.2. Football Spectators (Seating) Order 1997

This Order directs the Football Licensing Authority to include in any licence to admit spectators to specified football grounds a condition imposing requirements concerning the seating of spectators at designated football matches.

1.3. Deregulation (Public Health Acts Amendment Act 1907) Order 1997

This Order amends The Public Health Acts Amendment Act 1997 S4, making it unnecessary to obtain licences for pleasure boats or vessels on waters owned or managed by the British Waterways Board.

1.4. Deregulation (Football Pools) Order 1997

This Order allows the retailing of additional football pools' competitions through premises, removing the requirement for the association football games to be played on particular days, and enabling 16 and 17 year olds to participate in the pools' competitions.

2. **1996**

2.1. Safety of Sports Grounds (Designation) Order 1996

This Order designates the Deva Stadium, the Sixfields Stadium, and the Plainmoor Ground as sports grounds requiring a safety certificate under the Safety of Sports Grounds Act 1975 and varies the Safety of Sports Grounds (Association Football Grounds) (Designation) Order 1985 by omitting an entry which is no longer a sports ground.

2.2. Football Spectators (Corresponding Offences in Norway) Order 1996

This Order specifies offences under the law of Norway which appear to correspond to certain offences specified in Sch. 1 to the Football Spectators Act 1989.

2.3. Football Spectators (Corresponding Offences in the Republic of Ireland) Order 1996

This Order specifies offences under the law of the Republic of Ireland which correspond to certain of the offences specified in the Football Spectators Act 1989 Sch. 1.

2.4. Football Spectators (seating) Order 1996

This Order directs the Football Licensing Authority to include in any licence to admit spectators to football grounds a condition imposing requirements as to the seating of spectators at designated association football matches at those premises.

2.5. Safety of Sports Grounds (Accommodation of Spectators) Order 1996

The Safety of Sports Grounds Act 1975 Section 1(1), provides that a sports ground may be designated as requiring a Safety Certificate where it has accommodation for more than 10,000 spectators. This Order substitutes the number 5000 as the number at which a Safety Certificate may be required in the case of sports grounds at which Association Football matches are played and which are occupied by a club which is a member of the Football League Limited or the Football Association Premier League Limited. The specified number for all other classes of sports grounds remains at 10,000.

2.6. Adventure Activities Licensing Regulations 1996

These regulations provide for the licensing of persons in respect of the provision of facilities for adventure activities.

2.7. Adventure Activities (Enforcing Authority and Licensing Amendment) Regulations 1996

These regulations apply with modifications, the Health and Safety (Enforcing Authority) Regulations 1989 which allocate enforcement responsibilities between local authorities and the Health and Safety Executive in respect of the enforcement of the Adventure Activities Licensing Regulations 1996 and amend those Regulations by altering cross reference Regulation 7(1)(a).

2.8. Advantage Activities (Licensing) (Designation) Order 1996

The Activity Centres (Young Person's Safety) Act 1995 S.1(1) provides that the secretary of state shall designate a person to exercise prescribed functions relating to the licensing of persons providing facilities for adventure activities. This Order designates Tourism Quality Services Limited as "the licensing authority".

2.9. Recreational Craft Regulations 1996

These Regulations implement provisions of Directive 94/25 relating to recreational craft and apply to any product which is a recreational craft, partly completed recreational craft or component. The requirements which products must satisfy if they are to be placed on the market are prescribed requirements for CE making and other markings and inscriptions are set out, conformity assessment procedures are laid down along with procedures for the appointment of notified bodies, essential safety requirements for the design and construction of recreational craft are detailed, components are identified, a declaration by the builder or his authorised representative established in the community or the person responsible for placing on the market is set out. In addition EC type examinations, conformity to type, production quality assurance, product notification, unit verification, full quality assurance, technical documentation, written declaration of conformity and enforcement are dealt with.

2.10. Town and Country Planning (General Development procedure) (Amendment) Order 1996

This Order amends the Town and Country Planning (General Development Procedure) Order 1995. It introduces a requirement to consult, in England, [the Sports Council for England and in Wales], the Sports Council for Wales, before the grant of planning permission for development which may have a detrimental effect on the provision of playing fields.

2.11. Education (School Premises) Regulations 1996

Part V - lays down detailed requirements as to the standards to which playing fields of grant maintained schools and schools maintained by local education authorities are to confirm.

3. **1995**

3.1. Olympics Association Right (Infringement Proceedings) Regulations 1995

These Regulations make provision with respect to orders which the Corut may make in an action for infringement of the Olympic Association right conferred by the Olympic Symbol Etc (Protection) Act 1995.

3.2. Dog Racecourse Totalisator Regulations 1995

These Regulations prescribe the conditions which totalisators on dog racecourses must comply with. The Regulations also prescribe certain particulars which must be set out in notices posted on dog racecourses in connection with the operation of a totalisator.

3.3. Olympics Association Right (Appointment of Proprietor) Order 1995

This Order appoints the British Olympic Association as the proprietor of the Olympics Association Right for the purposes of the Olympic Symbol Etc (Protection) Act 1995.

3.4. Safety of Sports Grounds (Designation) Order 1995

This Order amends the Safety of Sports Grounds (Designation) Orders 1985 and 1986 by omitting entries which are no longer sports grounds and which do not therefore now require Safety Certificates under the Safety of Sports Grounds Act 1975. This Order designates the Cellnet Riverside Stadium, Middlesbrough, Cleveland, as a sports ground requiring such a Safety Certificate.

5. **1992**

5.1. Sports Grounds and Football (Amendment of Various Orders) Order 1992

This Order amends various Orders by which football matches and sports grounds are designated for the purposes of the Sporting Events (Control of Alcohol etc.) Acts

1985, the Football Spectators Act 1989 and the Football (Offences) Act 1991. Each amendment merely extends an existing designation to take account of the new Football Association Premier League.

5.2. Transfer of Functions (National Heritage) Order 1992

This Order constitutes the Secretary of State for National Heritage a corporation sole with a corporate seal. It transfers to the Secretary of State functions exercisable by, and property, rights and liabilities previously vested in (among other things) the Secretary of State for the Environment (e.g. functions and property etc. relating to historic buildings, the National Heritage and functions relating to the Sports Council).

5.3. Safety of Sports Grounds (Designation) Order 1992

Article 2 - designates the sports grounds specified as sports grounds requiring Safety Certificates under the Safety of Sports Grounds Act 1975. That Act was amended by Schedule 2 to the Fire Safety and Safety of Places of Sports Act 1987 so that references to sports grounds were substituted for the references to sports stadia.

Articles 3 and 4 - vary the Orders referred to by omitting entries which, with the exception of the Sheffield Sports Stadium, are no longer sports grounds. That stadium is no longer used for the same purposes as those other grounds designated under the 1975 Act.

6. **1991**

6.1. Local Government Act 1988 (Defined Activities) (Exemptions) (England) (N°3) Order 1991

Under Part I of the Local Government Act 1988 (Competition) work falling within certain defined activities may be carried out by local authorities only in particular conditions are fulfilled.

This Order exempts from the requirements of Part I the management of sports and leisure facilities by the Councils of Royal Borough of Windsor and Maidenhead, the Boroughs of Colchester and Tamworth and the District of South Somerset, so long as in each case specified conditions are met.

6.2. Football (Offences) (Designation of Football Matches) Order 1991

This Order designates Association football matches for the purposes of the Football (Offences) Act 1991. That Act introduces penalties for certain types of misconduct at designated football matches.

6.3. Litter Control Areas Order 1991

This Order, which applies throughout Great Britain, prescribes the descriptions of land which may be designated as litter control areas under Section 90 (3) of the Environmental Protection Act 1990. One of the descriptions is land used as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations.

7. **1990**

7.1. Fire Safety and Safety of Places of Sports Act 1987 (Commencement N° 6) Order 1990

This Order brings into force on 31st December 1990 Section 47 of the Fire Safety and Safety of Places of Sports Act 1987 which makes fresh provision regarding the voltage above which a luminous tube sign may be required to be fitted with a firemen's cut-off switch.

7.2. Education (Grant - Maintained Schools) (Finance) Regulations 1990

Regulation 10 and Schedule 5 - the Secretary of State may pay capital grants in respect of expenditure on, or in connection with, the laying out playing fields and other facilities for social activities and physical recreation used when intended to be used for the purposes of a school.

8. **1989**

8.1. London Government Re-organisation (Property etc.) (N° 2) Order 1989

This Order gives effect to further proposals by the London Residuary Body for the transfer of its properties to local authorities and new authorities (e.g. open spaces).

8.2. Fire Safety and Fire Safety of Places of Sport Act 1987 (Commencement N° 5) Order 1989

This Order brings into force on 1st April 1989 certain provisions of the Fire Safety and Safety of Places of Sport Act 1987.

9. **1988**

9.1. Safety of Sports Grounds (Designation) Order 1988

Article 2 - this designates the sports grounds specified as sports grounds requiring Safety Certificates under the Safety of Sports Grounds Act 1975. That Act was amended by Schedule 2 to the Fire Safety and Safety of Places of Sport Act 1987 so that references to sports grounds were substituted for references to sports stadia.

Article 3 - this varies the Order referred to by omitting an entry in respect of a place that is no longer a sports ground.

9.2. Young Offender Institution Rules 1988

Rule 38 - provision shall be made at a Young Offender Institution for physical eduction of inmates within the normal working week.

9.3. London Government Re-organisation (Property) Order 1988

This Order gives effect to proposals of the London Residuary Body, as modified by the Secretary of State, for the transfer of certain properties which it holds as successor in title to the Greater London Council (e.g. open spaces).

9.4. Fire Safety and Safety of Places of Sport Act 1987 (Commencement N° 3) (Scotland) Order 1988

This Order, which extends to Scotland only, brings into force Sections 44 and 48 of the Fire Safety and Safety of Places of Sport Act 1987 on 1st June 1988.

Section 44 - licensing of indoor sports premises in Scotland.

Section 48 - luminous tube signs : Scotland.

9.5. The Safety of Places of Sport Regulations 1988

These Regulations, which apply throughout Great Britain, concern Certificates under the Fire Safety and Safety of Places of Sport Act 1987. Such a Certificate, which is issued by a local authority, is required at sports grounds which are not designated sports grounds under the Safety of Sports Grounds Act 1975. The Certificate is required in respect of the use of each stand which provides covered accommodation for 500 or more spectators to use activities at the ground.

9.6. Fire Safety and Safety of Places of Sport Act 1987 (Commencement N° 4) Order 1988

This Order brings into force on 1st January 1989 certain provisions of the Fire Safety and Safety of Places of Sport Act 1987.

10. **1987**

10.1. Safety of Sports Grounds Regulations 1987

These Regulations, which apply throughout Great Britain, make provision for the procedure for appeals to the Secretary of State in respect of Safety Certificates under the Safety of Sports Grounds Act 1975.

10.2. Fire Safety and Safety of Places of Sport Act 1987 (Commencement N° 1) Order 1987

This Order brings into force on 1st January 1988 certain provisions of the Fire Safety and Safety of Places of Sports Act 1987.

10.3. Safety of Sports Grounds (Designation) Order 1987

By this Order the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975.

10.4. Section 19 Minibus (Designated Body) Order 1987

By this Order, the Secretary of State for Transport designates the bodies which may grant permits in relation to the use of small buses under Section 19 of the Transport Act 1985. The Sports Council is listed as one of these designated bodies.

10.5. Public Order Act 1986 (Commencement N° 2) Order 1987

This Order brings into effect on 1st April 1987 certain provisions of the Public Order Act 1986.

11. 1986

11.1. Safety of Sports Grounds (Designation) Order 1986

By this Order the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975 and certain sports grounds as a sport ground requiring a Safety Certificate under that Act.

11.2. Local Government Re-organisation (Miscellaneous Provision) (N° 4) Order 1986

This Order contains provisions consequential to the Local Government Act 1985 which abolishes the Greater London Council and the Metropolitan County Council. For example this Order transfers functions of the GLC under local Acts relating to specific open spaces to the Council in which the open space in question vests.

12. 1985

12.1. Sports Grounds and Sporting Events (Designation) Order 1985

This Order designates sports grounds and classes of sporting events taking place at those grounds or outside Great Britain for the purposes of the Sporting Events (Control of Alcohol etc.) Act 1985.

12.2. Safety of Sports Grounds (Rugby Football Grounds) (Designation) Order 1985

By this Order the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975.

12.3. Safety of Sports Grounds (Association Football Grounds) (Designation) Order 1985

By this Order the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975.

13. 1984; 1983; 1982; 1981

13.1. Safety of Sports Grounds (Designation) Order 1984; 1983; 1982; 1981

By these Orders the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975.

14. 1981

14.1. Education (School Premises) Regulations 1981

These Regulations make fresh provision as to the standards to which the premises of schools maintained by local education authorities are to conform. For example, they require that the land provided for a school shall be adequate to permit the provision both of buildings, recreation areas and playing fields to the required standards.

15. **1980; 1979; 1978; 1977; 1976**

15.1. Safety of Sports Grounds (Designation) Order 1980; 1979; 1978; 1977; 1976

By these Orders the Secretary of State designates certain sports stadia as stadia requiring Safety Certificates under the Safety of Sports Grounds Act 1975.

16. **1971**

16.1. London Authorities (Parks and Open Spaces) (Miscellaneous Property) Order 1971

This Order redistributes the ownership and management of certain parks and open spaces vested in the GLC between local authorities in and near Greater London. It also makes consequential provision as to the transfer of certain additional property.

17. **1969**

17.1. Commons Registration (New Land) Regulations 1969

These Regulations provide for the inclusion in the Registers of common land and of town or village greens maintained under the Commons Registration Act 1965, of any land which becomes common land or a town or village green after 2nd January 1970, and for the registration of rights of common over such land and of claims to the ownership thereof.

18. **1950**

18.1. National Parks and Access to the Countryside Regulations 1950

These Regulations make provision for various procedural matters, and for the delegation of functions by local planning authorities under the National Parks and Access to the Countryside Act 1949.